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8. General legal principles of safety and quality of agricultural products**Abstract**

A necessary element of the human life support mechanism is the satisfaction of his nutritional needs. However, with the growth of the Earth's population and the simultaneous decrease in the area of land plots suitable for growing agricultural products, a significant deterioration of natural and climatic conditions, the issue of providing the population with the specified products not only in sufficient quantity, but also in accordance with modern safety and quality requirements, which relate to her. First of all, this is due to the fact that in the case of the purchase of agricultural products of inadequate quality, the most important thing is at risk - human life and health, which is defined by the Constitution of Ukraine as the highest social value (Article 3). Thus, it is the safety and quality of agricultural products that is one of the main factors that affects not only the state of health and life of a person, but also the state of food security of the country as a whole.

However, despite the high degree of importance of the specified problem, the current legislation of Ukraine on the safety and quality of agricultural products is imperfect, contains many gaps in the legal regulation of the specified issues. These problems become especially acute in the light of the agrarian reform, which is caused by the need not only to increase the competitiveness of domestic agricultural products on European markets, but also by the aspirations of Ukraine to acquire full membership in the European Union and fulfill the obligations assumed in connection with joining the World Trade Organization knitting, which determines the relevance of this topic.

8.1 Theoretical studies of organizational and legal bases of safety and quality of agricultural products

Among the various sectors of the economy of any country, the food sector has always been and remains one of the most important. This can be explained by examining such a simple chain. One of the features of the state (some scientists, in particular H. Ellinek, single it out even as the main one [305, p. 296] is its population, which consists of individual people (citizens, subjects, etc.). Every single person, through his mental and/or physical work, ensures a certain (sufficient) standard of living (this applies to housing, food, etc.), however, such a process of provision has a two-way nature: the state, in its turn, as a political and legal organization of people, is obliged to It is necessary to create appropriate conditions for everyone to be able to provide for their primary life needs, first of all, in safe and high-quality agricultural products. So, if we simplify the specified chain, we will get a simple rule: for its normal functioning, the state must provide each person with agricultural products in sufficient quantity and of appropriate quality. The availability of safe and high-quality agricultural products forms the food security of the state, which is an important element and integral component of the country's national security. As O. V. Zvereva rightly points out, if in the case of non-food products we are most often talking about a certain discomfort caused by the purchase of goods of inadequate quality, then in the case of food products we can almost always talk about a threat to the life and health of the end consumer [313, p. 137].

For Ukraine, in the conditions of a difficult ecological situation, mass importation of imported agricultural products, most of which do not undergo proper inspection, it is extremely important for all market participants to comply with the requirements regarding the safety and quality of such products. In addition, the integration of Ukraine into the world economic community is impossible without the creation of a perfect legal framework for ensuring the quality of food [360,p. 106].

We note that the definition of the concepts of safety and quality of agricultural products is impossible without taking into account and generalizing the definitions of

safety and quality of products as a whole already developed in legal science, given the following. The definition of the term "agricultural products" is ambiguous. Thus, V. M. Yermolenko refers to it all raw products of cultivated crops, livestock and fish farming, obtained from agricultural activities, and products of its primary processing, which is carried out by its direct producer [307, p. 126]. V. I. Fedorovych considers agricultural products as unique in their properties, different from other types of products in the field of economy - both a food product ready for immediate consumption and an irreplaceable raw material for the production of food products [369, p. 192]. In turn, V. Y. Urkevich, with whom we fully agree, formulates this concept as products (plant, animal and fish), which are produced (grown) as a result of biological processes of their cultivation, have a natural origin from the earth and (or) from living biological organisms [368, p. 157]. However, all scientists, defining the concept of "agricultural products" have a common opinion that agricultural products are a variety of products (products), which proves the correctness of our statement. In addition, the Law of Ukraine "On the Customs Tariff of Ukraine" dated 04/05/2001 No. 2371-II [353], defining the concept of "agricultural products", includes food products (group 21 of the Ukrainian classification of goods of foreign economic activity), and therefore general signs of safety and quality of food products can reasonably be attributed to signs of safety and quality of agricultural products.

What should be understood by the term "product quality"? It should be noted that, despite the existence of numerous studies on the quality problem, science, including legal science, has not developed a single definition of this category.

When analyzing the practice of using the term "product quality", it can be noted that there is both polysemic use, that is, the extraordinary capacity and ambiguity of this concept, and synonymy, that is, the designation of the same concept by different terms [322, p. 38].

As L. M. Ivanenko points out, according to scientists' estimates, there are about 300 interpretations of the quality of goods (products), which have not exhausted this problem and are not exhausted to this day, which indicates the ambiguity of the studied concept [316, p. 47]. Therefore, the problem of the quality of goods and its legal

regulation remains relevant even in today's conditions, since providing the population with high-quality agricultural products is an activity that is not limited in time and space.

It is indisputable that the understanding of any phenomenon, subject, or concept is impossible without taking into account its origins, prerequisites, and general understandings. The development of views regarding the understanding of the concepts of "safety" and "quality" took place in several stages: 1) philosophical justification of the concept of "quality" and its definition as the most general concept ("quality" is a general philosophical concept); 2) justification of the concept of "quality" as a scientific category ("quality" is a special scientific concept); 3) introduction of the scientific categories "safety" and "quality" into real social relations ("safety" and "quality" are applied concepts).

The definition of the term "product quality", like any other, should be based on its philosophical concept as the most general. We associate the understanding of the origins of the concept of "quality", its philosophical justification with the first stage of the development of views on this concept, when the concept of "safety" is not separated from the concept of "quality", since the latter was defined as a philosophical category, that is, a concept with an extremely wide scope. It is believed that Aristotle was the first to address the problem of defining the concept of "quality" back in the III century. BC, who defined quality as follows: "Quality is a property associated with a certain evaluation of things, it is a specific feature that distinguishes this entity in its species specificity from another entity belonging to the same genus" [293].

Medieval scholastics asserted the existence of certain hidden qualities, which were allegedly eternal and unchanging "forms". Views about the primary and secondary qualities of things were formed on the basis of the mechanistic worldview and philosophy of the New Age.

The famous representative of German classical philosophy, H. Hegel, considered quality as a logical category, the initial stage of knowledge of things and the formation of the world, a direct characteristic of the existence of an object. "Quality, first of all, is the identical being of determination, such that it ceases to be what it is if it loses its

quality. Something is what it is because of its quality" [299, p. 157]. Thus, quality as a philosophical category represents the specific determination inherent in things, which is their being and distinguishes them from other things in a certain system of connections [303, p. 466].

As we can see, attempts to give the most general definition of the concept of "quality" can be traced throughout the history of the development of philosophy. However, it should be noted that the presence of the concept of "quality" of a philosophical nature does not exclude the possibility of its definition in relation to specific subjects, phenomena or industries ¹, including the concept of "quality" as a legal category.

It is with the emergence of a scientific understanding of the concept of "product quality" that we associate the beginning of the second stage of the development of views on this concept. Already in the XVI century, emphasizing the importance of product quality issues, the English geographer and historian R. Hakluyt pointed out the following: "... just as good quality from the very beginning will ensure trust in your goods, which will only increase over time, so will fraudulent or counterfeit goods will call upon you and all your goods scorn and foolish fame" [338, p. 17].

The category "quality" received its most complete justification in domestic science in the works of the founders of dialectical materialism, K. Marx, F. Engels, and V. I. Lenin.

Thus, F. Engels considered the categories of quality in two aspects: 1) every quality has an infinite number of quantitative gradations (for example, color shades, hardness, softness, durability, etc.), although qualitatively different, but accessible to measurement and cognition; 2) there are "not qualities, but only things possessing qualities, and moreover an infinite number of qualities" [376, p. 547]. The quality of the object is revealed in the totality of its properties [334, p. 43].

In view of this, it is necessary to understand that quality is a property of a thing or a set of such properties. This most general definition of quality is of practical

¹For example, the Great Soviet Encyclopedia defines the philosophical concepts of quality as such, as well as surface quality, judgment and products.

importance, since one thing can be distinguished from another or compared by the nature of its properties. At the same time, it does not matter whether the properties of a thing are positive or negative, whether they are useful or harmful, say, for a person - these properties give us a general idea of a thing as a certain qualitative determination [377, p. 8].

K. Marx connects the quality of a thing with its consumer value. In particular, the scientist pointed out that "a product, unlike a simple object of nature, reveals itself as such, becomes a product only in consumption. However, the sum of all its possible useful applications is contained in its being as things with certain qualities" [333, p. 30].

Analyzing the ratio of quantitative and qualitative characteristics of an object and continuing the idea started by K. Marx, V. I. Lenin, in particular, cites the well-known example of a glass, which, having a set of certain qualities, under different conditions of its use, is useful for the consumer precisely because it has certain quality necessary in a specific situation [329, p. 289]. Thus, a thing can have several qualities at once, each of which is revealed only in the process of consuming such a thing.

Therefore, the main characteristic of the second stage can be considered the emergence of a scientific understanding of the concept of "quality", in particular, its definition as a purely legal category, which became the basis for the start of work on the implementation of the obtained general philosophical and special legal knowledge into the normative plane through their formalization in specific legal acts.

The third stage, which, in our opinion, continues even today, is the research and highlighting of the problem of product safety and quality, which began back in the times of the USSR. During this period, the problem of product quality gained practical importance in connection with the intensive development of the country's agricultural sector. In addition, attention is paid to the quality of agricultural products as one of the areas of ensuring the country's food security. In the future, scientists distinguish as a separate component of product quality - its safety, giving the last status of one of the main elements, quality indicators.

During this period, H. G. Azgaldov, V. G. Andriychuk, N. A. Berlach, A. V. Bilousova, V. P. Voitlovskiy, M. Y. Volynskiy, A. V. Glychev, V. I. Gostev, V. P. Grybanov, M. G. Gurevich, M. B. Yemelyanova, V. P. Zhushman, A. M. Zaporozhets, O. V. Zvereva, A. A. . , E. K. Olkhon, V. F. Opryshko, V. N. Panov, M. G. Pronina, A. M. Rabinovich, S. M. Romanko, E. A. Sarkisova, V. S. Shelestov, V F. Yakovlev, O. M. Yakovlev and others.

Taking into account the fact that the concept of quality is constantly changing, each of the researchers formulated his own definition of quality, which do not contradict, but complement each other [326, p. 138]. As rightly noted by M.B. Yemelyanova, the multifaceted nature of the "product quality" category made it one of the main categories of various sciences — technical, natural, and social. Strengthening their connection, joining efforts became a necessary prerequisite for solving the problems of product quality optimization and its management, and each science considers quality in its own aspect [306, p. 137].

However, recognizing the need for a complex approach to the issue of product quality and the possibility of creating a general concept of quality that would take into account all its aspects (technical, economic, aesthetic, legal, etc.), M. B. Yemelyanova believes that legal science must necessarily have developed concept of quality "in the legal sense" [306, p. 139]. At the same time, the specified category should be understood as "the degree of compliance of the products of the complex with the level of requirements that determine the suitability and expediency of using the products according to the intended purpose and established standards (technical conditions), and in the absence of standards (technical conditions) or upon agreement of higher and more detailed in requirements of the contract compared with them" [306, p. 139]. The positive thing in the given definition is M. B. Yemelyanova's indication of the need to use the product exactly as intended, as well as the introduction of the concept of "expediency of use", which in this context indicates the importance of a certain quality of a thing under the specific circumstances of its use (consumption). However, one cannot agree with the author's statement that quality is a certain degree of conformity, because, as noted earlier, quality is what characterizes a certain thing,

what makes this thing what it is. Taking this into account, we believe that quality is only a property or a set of properties of a certain thing (product).

V.L. Naumov's position is close to the one given above [337, p. 37] and V.P. Hrybanova . Thus, the latter adheres to the point of view that it is impossible to speak categorically about the possibility of the existence of only one definition of the concept of "quality", since each of them always expresses only the most important thing in the phenomenon. At the same time, each phenomenon can be considered from the standpoint of different sciences, and then different definitions of the same phenomenon are possible (and in some cases necessary). Therefore, when solving this problem, it is considered possible, based on the most general definition of product quality, to emphasize its various aspects that can be influenced by various methods. As a result, we have the fact that product quality is the degree of compliance of its technical and economic properties of the complex and the level of requirements that are set and established in the relevant legal acts and business contracts [377, p. 8]. However, in this definition, the author again uses the wording "degree of conformity", reasons for disagreement with which we have given above.

V. F. Opryshko defines quality as a legal category, the content of which is a set of relevant consumer properties legally enshrined in state, industry, republican and international standards, as well as technical conditions, samples (standards), approved in accordance with the procedure established by the state or stipulated by the supply contract [341, p. 18]. A similar definition is given by A. V. Glychev, V. N. Panov and H. G. Azgaldov [290, p. 121]. The same position is held by M. G. Gurevich, who understands product quality as "compliance of both the internal properties of the product (goods) and its external data with the quality characteristics and requirements established by state standards, technical conditions or samples" [301, p.137]. Similarly, the quality of products is determined by A. A. Sarne [362, p. 6], A. Yu. Kabalkin [317, p. 7], O. M. Yakovlev [378, p. 23]. However, these authors do not take into account such a feature of the product as its ability to satisfy certain needs of consumers, which, taking into account the previously stated positions of dialectical materialism, generally deprives such products of the meaning of existence.

A. M. Zaporozhets, noting that product quality as a complex category is a set of product properties that are laid down in the work process and provided for in regulatory and technical documents at all stages of the product life cycle, ensuring reliable and long-term satisfaction of individual consumer needs with optimal costs to support work capacity during the period of operation of final products [311, p. 21], takes into account the ability to satisfy certain needs of consumers as a property of products, which was mentioned above, however, the specified definition has a more economic meaning, since it indicates the need for certain costs during the consumption of products and operates in other purely economic categories.

V. S. Shelestov, revealing the duality of the understanding of quality and deeming it necessary to focus on the characteristics of the product from the point of view of the manifestation of its properties, separates the concept of quality in the technical and economic sense, understanding by it the set of properties of the object that characterize its social consumer value and provide to the consumer at a certain achieved technical level, its proper use, and in the legal sense, considering this category as regulated by the law, indicators of the qualitative certainty of the subject, which, according to the technical and economic content, the manufactured products must meet [373, p. 37]. The disadvantage of the specified definition of quality is the failure to take into account the possibility of contractual settlement of requirements for product quality indicators. However, in view of the administrative-command nature of the economy, which it had at the time of the appearance of the specified position, this is, rather, the author's failure to take into account possible ways of developing the understanding of the concept of "quality" in the future.

B. M. Mezrin, asserting that the unity and differentiation of the category "quality" in time and space is determined by its conditionality, normalization by social existence - the level of development of productive forces and the nature of production relations, considered another version of the definition of the concept of product quality more acceptable, namely: "Product quality is a set of socially standardized (studied) essential properties — technical, economic, aesthetic, and others, which determine the degree (level) of its suitability to satisfy certain needs in accordance with its purpose"

[336, p. 55] . In our opinion, this definition has the largest number of signs of the concept of product quality among others. However, the author, directly pointing to such properties of products as technical, economic and aesthetic, does not separate properties that carry the risk of harming the consumer of such products to his health or even life, assigning such properties to the category of "others", and in addition - completely deprives this concept of any legal content. Scientists such as V. G. Andriychuk [292], M. Y. Dolyshnyi [304], V. P. Voitlovskiy [298], A. V. Krysalnyi [375], V. P. Zhushman [308], V. M. Ogryzkov. Thus, the latter noted that product quality is a category that exists objectively and there is no point in talking about different concepts of the same phenomenon. Research should be conducted not in the direction of "independent" industry definitions of product quality, but the formation of a practically applicable general definition of product quality. Thus, the scientist proposes a complex concept of quality: "Product quality is a set of essential properties (technical, economic, aesthetic, and others), established by standards and technical conditions, as well as revised in cases established by law by the supply contract" [339, p. 29]. A similar definition is proposed by O. V. Zverev [313]. The disadvantages of these definitions are the same as in B. M. Mezrin 's definition given above.

Emphasizing the importance of taking into account the specific needs of the consumer, D. S. Lviv, understanding by utility the degree of satisfaction of social needs, that is, consumer value on a social scale, indicates that the concept of product quality should not be confused with its usefulness. On this basis, he comes to the conclusion that it is advisable to link quality research with the study of specific consumer needs. In his opinion, the quality of products should be understood as the degree of satisfaction of a specific need by these products [331, p. 10]. Ch.B. Bazarzhapov has a similar opinion, who defines quality as an integral indicator that characterizes the ability of the product as such and its properties, in particular, to satisfy certain needs [294, p. 18].

The position of such scientists as V. N. Zymovets, D. V. Polozenko, A. A. Storozhuk, V. E. Protasov [374, p. 104], Ya. A. Byeda [295, p. 49], V. I. Syskov [365, p. 35], Yu. A. Zykov [314, p. 20], which define product quality as a combination

of its consumer and production qualities, their quantitative characteristics, which can be expressed in different units, for agricultural products - mainly in percentages, for example, the content of protein, radionuclides, pesticides, herbicides [288, p. 255]. However, not all scientists agreed with the division of product quality into consumer and production [342, p. 41]. However, at this time, the expediency and even the necessity of such a distribution does not cause objections and, in particular, is reflected in the definition of the quality of agricultural products, which is given by A. P. Hetman and V. Z. Yanchuk [300, p. 217].

As you can see, there are really many definitions of the concept of "product quality", but all of them can be classified by groups. The first group is the definition of the economic content, which establishes only requirements for the consumer value of products (V. P. Grybanov, A. M. Zaporozhets, K. Marks, etc.). The second group is the determination of the legal content, which establishes the need to establish product quality requirements in certain legal acts (M.B. Yemelyanova and others). The third group is complex definitions that take into account both the objective (the need to establish product quality requirements in certain legal acts) and the subjective (the ability of products to satisfy consumer needs) side of the concept of "product quality" (V. S. Shelestov, B. M. Mezrin, etc.).

However, one should agree with the opinion that the legal definition of the quality of agricultural products should combine its economic and legal aspects [315, p. 73]. Regarding the inclusion of certain technical aspects in the specified legal definition, we believe that the standards, technical conditions and other requirements for such products should be established in certain normative acts (for example, state standards), which after their establishment acquire the status of an element of the legal mechanism for regulating safety and quality agricultural products.

Ogryzkov correctly points out, in order to judge the quality of products, it is necessary to take into account the established indicators of its quality, that is, the quantitative characteristics of the properties that are part of the quality of this product. Today, scientists have singled out quite a few such indicators [292, 296, 324, 341],

however, taking into account the special type of products that we are investigating, the following indicators of the quality of agricultural products can be distinguished:

1. Safety indicators, which generally consist in the absence of a threat of harmful effects of these products, raw materials and related materials on the human body. This indicator will be explained in more detail later.

2. Biological indicators characterize the suitability of agricultural products for consumption as food. They depend on organoleptic, chemical, physical and other characteristics of agricultural raw materials, in the process of using which these products are obtained. Among these indicators, the most important are the content of macro and microelements, proteins, vitamins, sugar, starch, fats, etc. in the products. With the help of biological indicators, a conclusion is made about the suitability or unsuitability of the corresponding type of agricultural products for consumption and ensuring the normal life activity of the human body. It should be remembered that biological quality indicators are dynamic, significantly depend on weather and soil conditions, and can improve or deteriorate under human influence.

3. The manufacturability indicators characterize such properties of agricultural products that are necessary and at the same time too important for their effective processing or for industrial use in subsequent cycles of agricultural production. Indicators of manufacturability of intermediate products directly affect not only the productivity of agricultural production, but also the quality of the final products produced by them. In addition, this indicator makes it possible to evaluate the special properties of agricultural products as an object of production and/or use (intermediate or final consumption). The most generalized indicators of manufacturability are labor intensity of production or processing, time consumption, cost, level of clogging, grade purity, level of moisture/dryness, etc.

4. Indicators of the transportability of agricultural products characterize the degree of their suitability for transportation and for loading and unloading operations by appropriate means and in certain ways. The most important indicators of transportability are such technical and economic properties as the class and dimensions of products, time and money spent on preparing products for transportation, the cost of

containers and packaging, methods of packaging, costs for loading and unloading operations, the cost of transportation, etc.

5. Reliability indicators testify to the suitability of agricultural products to preserve biological and a number of technological indicators of quality during their storage and transportation. Quantitatively, reliability indicators are measured by the resistance of products to external stimuli (factors), including the period of storage of products under different methods of its implementation and the distance of its transportation on roads of different classes and/or types.

6. Environmental indicators make it possible to judge the environmental cleanliness of agricultural products and their suitability for human consumption or animal feeding from the point of view of the harmlessness of their impact on the state of living organisms and the natural environment. These are indicators that limit the possible risks that the consumer can expect during the use (consumption) of agricultural products, that is, they outline the so-called "acceptable risks", which will be discussed further. These indicators include the content of radionuclides, nitrites, pesticide residues and other substances dangerous to human life and health.

7. Economic indicators characterize the degree of economic benefit of production by an agricultural producer of products of appropriate quality. The most important of them are: price per product unit; profit per unit of production; price competitiveness of products; the share of products for which a quality certificate has been received; the share of exported products in the total volume of their sales, etc.

8. Aesthetic indicators are of particular importance for agricultural products that are consumed fresh. They characterize the marketability of products and can significantly affect economic indicators.

9. Patent legal indicators are inherent in those types of agricultural products that are protected by a patent (for example, new varieties of plants). They describe the quality of new inventions embodied in goods, their significance. At the same time, patent law indicators characterize the patent purity of agricultural products, that is, the possibility of their unhindered circulation on the domestic and foreign markets.

In addition, it is possible to classify indicators of the quality of agricultural products according to the following criteria.

1. According to the degree of obligation to take them into account when assessing the quality of agricultural products: mandatory (for example, environmental safety) and optional (for example, aesthetic indicators).
2. According to the form of manifestation: actually existing and normalized. The significance of the specified classification is that the consumer of agricultural products is able to establish whether its actual properties correspond to the indicators provided for by the relevant norms of the law and/or contract.
3. By content: quantitative (for example, cost) and qualitative (for example, safety).
4. Depending on the stage (cycle) at which agricultural products are: production and consumer.

It should be noted that neither the specified classification criteria nor the elements of such classifications can be considered exhaustive and existing in an unchanged form, since the presence or absence of certain criteria and/or elements, their names and content may change depending on specific circumstances. including from the existing level of development of science and technology. It is quite reasonable to claim that the higher the level of scientific and technological progress of mankind, the more science discovers new things where, it would seem, the limits have already been reached, which in the future also expands the perception of the safety and quality of agricultural products.

The opinion of the Russian scientists M. Predvoditelev and O. Badaev [343], who follow the example American colleagues A. Parashurman, V. Zaitaml and L. Berry [379, 380] in approaches to quality management, focusing on the consumer, use the GAP model (from English Gap - gap) . The originality of this model lies in the fact that its starting point is the correlation of the consumer's expectations from the thing with the consumer's perception of the actually received thing. Such logic is relevant above all for goods whose quality is difficult to assess on the basis of purely objective characteristics. Given the fact that one of the signs of the quality of agricultural products is its ability to satisfy certain needs of the consumer, the presence

of objective and subjective characteristics of these products is indisputable, which determines the relevance of the specified model for the field of agricultural product quality management. In this way, the specified model can be used to analyze the reasons for not satisfying certain human needs from the consumption of agricultural products and reducing its competitiveness. Moreover, according to the specified model, an agricultural product is of high quality if there is no gap between the perception of the product and the expectations regarding this product. The existence of the specified gap arises due to certain reasons (so-called "Discontinuities").

Thus, Gap 1 occurs when the actually obtained agricultural products do not correspond to the generally accepted ideas about these products in our time. For example, the majority of the population of Ukraine is used to the fact that watermelon and strawberries must have stones (seeds). However, even today these products can be grown without such stones (seeds), and therefore it can be perceived by the consumer as a product of inadequate quality.

Gap 2 occurs when the actually received agricultural products do not meet the requirements for it established in the current legislation of Ukraine or the contract. The reason for this may be the insufficient level of qualification of workers, outdated technologies for the production of agricultural products, as well as an imperfect control system for the safety and quality of agricultural products.

Gap 3 occurs when consumers have a false perception of agricultural products. Such a situation can arise under the conditions, if the producer or seller of agricultural products intentionally overestimates some of its indicators in order to obtain a greater economic benefit.

Gap 4 occurs when the consumer's expected indicators of agricultural products are lower than those actually received by him. First of all, this is due to the improper performance of the duties by the producer and/or seller of agricultural products. Such a situation is also possible in case of non-observance of established prescriptions for storage and transportation of products, as a result of which the latter does not meet the requirements applied to it by the consumer.

As you can see, the GAR model makes it possible to control the production processes and circulation of agricultural products in terms of dialogue between the producer, the seller and the consumer, which makes it possible to identify potential reasons for the latter's dissatisfaction with the consumed agricultural products, to predict the influence of certain external or internal factors on his perception of such products. In addition, this model once again emphasizes that the consumer value of agricultural products is one of the main signs of its quality.

However, among all the existing indicators of the quality of agricultural products, the most essential, the most important from the point of view of the possibility of impact on human health and life, is its safety, which in general consists in the absence of the threat of harmful effects of these products, raw materials and related materials on the human body [296, p. 150].

Concepts similar in form, but different in content, are often found in legal literature and legal acts. In particular, it is about the concepts of "environmental safety of agricultural products" and "safety of agricultural products". In order to distinguish them, let's explain the following. As S. M. Romanko reasonably claims [361, p. 10], environmental safety of agricultural products is one of the types of environmental safety and one of the areas of ensuring global and national security in general. It can also be characterized by the state of social relations that arise in connection with the production, processing, and sale of agricultural products, for which it is necessary to ensure the right of the consumer to ecologically safe agricultural products and to a safe environment, which is achieved by establishing in the current legislation requirements for rational use of nature in the field of agricultural production, on measures to ensure the environmental safety of agricultural products and the creation of a system of specially authorized state authorities to monitor the implementation of requirements.

In turn, safety is one of the properties of agricultural products, which mainly determines its ability to be consumed. Safety is a less mobile and more concrete indicator of the quality of agricultural products than, say, its aesthetic indicator. First of all, this is due to the fact that the requirements for the safety of agricultural products under modern conditions are quite strictly regulated by legal acts in order to prevent

the spread of diseases caused by the use of products of questionable safety [330, p. 197].

A. M. Rabinovych even notes that product safety is a prerequisite for its quality, arguing that if the products are not safe for the consumer, then the question of their quality cannot arise at all, since they are known to be harmful to life and health human, and therefore are of poor quality. In this case, they have a harmful, negative quality (malignancy) [360, p. 106]. However, in our opinion, this position is debatable. First of all, this is due to the fact that the current legislation, while using various legal constructions, guarantees the right of every person to safe living conditions. So, today there is a presumption of safety of life, which, in particular, includes a presumption of safety of agricultural products. Based on the above provisions, it is quite reasonable to claim that safety cannot be a prerequisite for quality, but on the contrary, it is an indicator of it. The same opinion, in particular, is held by S. M. Romanko [361], V. Z. Yanchuk [288], T. G. Kovalchuk [323] and others.

However, situations may arise when some agricultural products may be dangerous for a certain category of the population. So, for example, sugar, which is a high-quality product under the conditions of compliance with the usual indicators related to it, can pose a threat to the life and health of a person suffering from diabetes, and therefore be dangerous in this particular case. However, we note that safety should be understood as an indicator for which the requirements are generalized. This means that the product is safe for a person whose state of health corresponds to the norm (certain physiological, medical indicators, etc.), of course, provided that such products are used as intended. The application of the concept of "normal state of health" is necessary, because in the production of any product, including agricultural products, it is impossible to take into account all possible risks. We can follow a similar approach to taking into account the diversity of life situations in many normative legal acts, which contain wording such as "and similar...", "and others..." etc.

However, it should be remembered that there are no absolute categories, and therefore no product can be absolutely safe. For example, on June 25, 2009, a twelve-year-old boy named Noam, a resident of Beersheba almost died because of a milk

allergy, which Noam 's parents learned about when he was an infant. At the same time, the boy's allergy appeared not only when dairy products were consumed directly, but also when another food product was next to the dairy product.

In view of this, it would be more correct, in our opinion, to talk about the safety of agricultural products not only as the complete absence of any harm from their consumption, but also about the possibility of negative effects of such products on the human body within the limits established in advance by legislation or a contract . Modern science, legislation of foreign countries and international treaties use the category "risk" to indicate the indicated possibility of a negative impact of the use of agricultural products on the human body. Therefore, we believe that it is appropriate to use the concept of "acceptable risks from the consumption of agricultural products" to indicate the limits of such risks.

The analysis of the studied scientific works gives reason to conclude that the concept of "quality of agricultural products" and, together with it, the concept of "safety of agricultural products" as its indicator have the following main features:

1. A set of essential properties of agricultural products. This means that we do not attribute any properties of the specified products to such a set, but only those that are defining for this particular product, that make it what it is. As V.F. Opryshko points out, in practice, out of the multitude of properties that can characterize each product, to characterize its quality, only those properties that are now of the greatest interest to society, can be achieved at this stage of the development of technology, production and achievement of which are singled out is economically feasible [322, p. 38]. This sign has a legal character, since the indicated essential properties of agricultural products are fixed in the relevant legal acts: regulations, provisions, standards, technical conditions, etc.

2. Agricultural products may not pose any or may pose acceptable risks for the consumer under the reasonably foreseeable, usual or such conditions of use of such products as are established in a regulatory act or contract (product safety). This means that the manufacturer guarantees the absence of risks (or their acceptable level) only under the condition of observing the rules of its consumption, which are either

generally accepted in society at a specific stage of its development (normal conditions), or which differ from generally accepted ones, but can be provided by the manufacturer or by the "average" consumer (reasonably foreseeable), or that are fixed in a regulatory act or contract. It follows from this that the consumer (buyer) must be properly informed about the order of consumption (use) of this or that product. A similar provision is used in such civil-law relations as warranty repair, when the manufacturer (seller) guarantees to eliminate the defects of the goods produced (sold) by him only under the condition that the buyer (consumer) complies with certain rules (for example, regarding the operation of the goods). Therefore, given that agricultural products are, albeit a special type of goods, the application of the specified provisions will be expedient and mutually beneficial for both the consumer (buyer) and the producer (seller).

3. Taking into account the impact of agricultural products on the surrounding natural environment when determining them as safe and/or high-quality, since both agricultural products and the surrounding natural environment influence each other. This feature is directly related to the environmental safety of agricultural products, the issue of which was discussed earlier.

4. Product properties are able to satisfy the predetermined needs of the consumer of such products. As mentioned earlier, a thing becomes itself, acquires consumer value and reveals its qualities only in the process of its consumption, that is, the satisfaction of certain needs of the consumer. However, such consumer value is determined not only by the totality of physical, chemical and other natural properties of products, but also by the complex of purposeful actions of a person in relation to such products, as well as the perception of such a person about these products.

8.2 Legislative provision of safety and quality of agricultural products

One should agree with the statement that preserving and strengthening human health and recognizing his right to safe and high-quality food products was and remains one of the main tasks of any state, including Ukraine [289, p. 406].

Modern economic and political conditions, in which Ukraine is, give the problem of safety and quality of agricultural products a new sound, which requires a review of outdated scientific and legislative views and the development of new solutions of an organizational and regulatory nature. It is undoubtedly important to take into account all the advantages and disadvantages of domestic and foreign legal experience in regulating issues of safety and quality of agricultural products. As T. E. Varlamova rightly noted, "history is the science of the future. In order to manage our future ... one must know the history of its development, be able to use its lessons" [370, p. 3].

Yes, even in the Laws of Manu, written in the period from the II century B.C. - II century AD, and is a monument of ancient Indian literature, one of the conditions of the contract of sale of goods was their quality. In particular, it was stipulated that "one should not sell a product mixed with another, neither of low quality, nor insufficient in weight, nor such that is not available, nor hidden or hidden under a dress or in the ground" [309]. In case of sale of goods of inadequate quality, the agreement could be terminated within 10 days without any additional explanations. In Ancient Egypt, for example, requirements were established for the size and quality of building elements [332, p. 53]. Also known is the fact of the existence of the so-called Phoenician trademarks, which confirmed the quality of the manufactured products.

With the passage of time, the importance of quality as one of the main requirements for products has not decreased. So, for example, according to Article 1516 of the Code of Laws of the Russian Empire, the seller must transfer the property to the buyer of the same quality as it should be on the basis of the condition or previously by mutual consent of the approved samples [363, p. 129]. According to Article 1518 of the specified Code, in case "if it is recognized in court that the property sold does not meet the conditions and samples in terms of its qualities, it is returned to the seller, who, in turn, is obliged to return the deposit to the buyer" [310, p. 282], which was mentioned in the decision of the Senate No. 1450 of 1873.

In the 20th century, thanks to the trends of humanization and democratization of society and the state as a whole, the actualization of consumer rights protection issues, the need to expand the country's export capabilities, as well as the direct interest of

manufacturers and sellers of products [327, p. 50], including agricultural, the problem of product safety and quality is increasingly being paid attention to in national legislation.

It should be noted that the legislation that regulates the safety and quality of agricultural products is complex, that is, it is legally heterogeneous, because it includes not only the norms of individual regulatory acts, but also, as a whole, normative acts of various branches of legislation [341, p. 27]. In particular, it combines the norms of labor law (for example, the norms regulating the procedure for payment of labor in the manufacture of products that turned out to be defective), civil law (for example, the norms that establish the terms of the contract for the contracting of agricultural products); criminal law (for example, norms establishing criminal liability for the production or circulation of substandard products), etc. These norms are included both in special normative acts, devoted exclusively (or mainly) to the specified issues, and in other normative acts, which in their main content cannot be generally classified as legislation on product quality [341, p. 27, 322, p. 38].

Analyzing the legal regulation of public relations in the sphere of product safety and quality in the Russian Federation, L. E. Chapkevich singles out its three main stages [372, p. 89]. In turn, we propose to single out three stages of the development of legally regulated social relations arising in connection with the safety and quality of agricultural products in Ukraine.

At the first stage, the concept of "safety" was not separated into an independent category and together with other product requirements formed the concept of "product quality". This stage was characteristic of the Soviet period and lasted from approximately 1923 to the beginning of the 90s. It was in 1923 that the requirements for exported goods were established, and the Decree of the Supreme Soviet of the USSR dated September 15, 1925 established the obligation to comply with standards for all goods produced in the USSR. One of the indicators of the development of the planned economy was the improvement of product quality, and the safety of products produced for the domestic market and imported by the Soviet state was assumed [312, p. 94]. In particular, the Civil Code of the Ukrainian SSR [371], operating with the

concepts of "quality of the thing sold" and "production of improper quality", in Article 233 presumes the quality of the thing sold and only indicates that such quality must meet the terms of the contract, and in the absence of instructions in contracts - requirements that usually apply to such a thing ².

However, one of the first normative acts of the USSR, in which the definition of product quality received official confirmation, was DSTU 15467-79 "Management of product quality. Basic concepts. Terms and definitions" [367], according to which product quality is a set of product properties that determine its ability to satisfy specified needs in accordance with its purpose. However, this standard, which in its essence is a regulatory act, fixing the definition of the concept of "product quality", does not take into account its legal aspect, although it is certainly of great importance for the science and practice of product quality management, the comprehensive use of law as an important means of ensuring it [326, p. 139].

An important milestone in the development of legislation on product quality is the Food Program of the USSR for the period up to 1990 and measures for its implementation in 1982 [297], in which the question is raised not only about increasing the productivity of agricultural production (section two of the Program), but also about technological "re-equipment" of the agro-industrial complex (section three of the Program) and introduction of a scientific approach to production (section five of the Program) with the aim of improving the quality of products.

An equally important milestone on the way to the development of quality legislation is Resolution No. 540 of the Central Committee of the CPSU and the Council of Ministers of the USSR dated May 12, 1986 "On measures to fundamentally improve the quality of products", which outlined ways to implement the decisions of the XXVII Congress of the CPSU on improving product quality. In particular, the resolution provided for strengthening the responsibility of manufacturers for ensuring product quality, and enterprises for improper product quality.

²It should be emphasized that the Civil Code of Ukraine dated 16.01.2003 and the Economic Code of Ukraine dated 16.01.2003 regulate the issue of product quality (including agricultural products) similarly.

Thus, the first stage of legal regulation of the safety and quality of agricultural products is characterized by the absence of a distinction between the concepts of "product safety" and "product quality", as well as one of the earliest official fixations not only of the definition of the concept of "product quality", but also of its economic and legal features.

The second stage in the legal regulation of the safety and quality of agricultural products came in the early 1990s. First of all, this is due to the simultaneous decrease in the influence of state regulation of the quality of agricultural products and the significant development of free business relations, including foreign economic relations, which led to the saturation of the market with low-quality products (given its non-compliance with the existing standards and other norms at that time), and often and agricultural products that are simply dangerous for human life and health. Under such conditions, there was a need to guarantee the safety and quality of agricultural products at the state level.

The Law of the Ukrainian SSR "On the Protection of Consumer Rights" dated May 12, 1991 No. 1023-XII [349] enshrined the consumer's right to proper product quality and safety. Thus, Article 5 of the Law established that the consumer has the right to demand from the seller (executor) that the quality of the products purchased by him meet the mandatory requirements of state standards, other regulatory and technical documentation and contracts. At the same time, the requirements set for product quality should provide for product safety, protection of health and life of citizens, and environmental protection. Pointing to the requirements for product safety, the legislator notes that the consumer has the right to a guarantee that the products purchased by him are manufactured in compliance with sanitary and hygienic, including anti-epidemic norms and rules and other established requirements that exclude danger to life and health or causing damage to his property, and is safe during the service life (expiry date) of the products, defined by current legislation, state standards, regulatory and technical documentation or the contract.

In addition, the Law established the levels of dangerousness of products. Thus, products were considered unacceptably dangerous if their use inevitably leads to

danger to life and health or damage to citizens' property. Products, when using which it is necessary to observe special safety rules, are considered products of increased danger.

In order to protect the interests of consumers and the state in matters of safety of products (processes, works and services) for life, health, property of citizens, protection of the natural environment, Decree of the Cabinet of Ministers of Ukraine "On standardization and certification" No. 46 was adopted on 10.05.1993 -93 [357], which uses the terms "products dangerous to the life, health and property of citizens and the natural environment" and "product quality", but does not specify their definition.

The text of the Law of Ukraine "On Ensuring the Sanitary and Epidemic Welfare of the Population" dated February 24, 1994 No. 4004-XII [364] uses the term "food safety", but its definition is also not given. However, this Law established quality requirements based on safety criteria for agricultural raw materials and food products. Thus, Article 18 stated that agricultural raw materials and food products of plant and animal origin, during the production, storage and transportation of which pesticides and agrochemicals were used, must meet sanitary and hygienic requirements, which must be confirmed by a certificate of conformity. In addition, Article 19 of the Law defines quality requirements based on safety criteria for imported agricultural raw materials and food products. It states that, according to these criteria, they must meet the state standards of Ukraine and other regulatory documents, and be accompanied by certificates of compliance. In the future, changes were made to the specified article, but their legal content did not change.

As Ukraine aspires to become a full member of the European legal space, it cannot but pay attention to some acts of European international organizations, which contain relevant definitions of the concept of "quality". Thus, the International Organization for Standardization (ISO, 1946, London) formulated a definition of the concept of "quality", which should apply to all areas of business and industry. According to the ISO 8402-86 document, product quality is a set of product properties that determine its suitability to meet certain needs in accordance with its purpose. The definition of the concept of quality is also given in the International Standard ISO 9001.87, according

to which quality is a set of properties, characteristics of products or services that give these properties the ability to satisfy the stipulated needs that are expected, according to the ideology of the 9000 series standards. The quality system must function in such a way that to ensure that no defects will be found within a certain period of time after its use. In 1994, in the process of clarifying the ISO terminology, the following definition was formulated: quality is a set of characteristics of an object related to its ability to satisfy the established and anticipated needs of consumers.

The concept of "product quality" was officially established in the Decree of the Cabinet of Ministers of Ukraine "On State Supervision of Compliance with Standards, Norms and Rules and Responsibility for Their Violation" dated April 8, 1993 No. 30-93 [345]. Thus, product quality was defined as a set of properties that reflect safety, novelty, durability, reliability, economy, ergonomics, aesthetics, environmental friendliness of products, etc., which give it the ability to satisfy the consumer in accordance with its purpose (Article 1 of the Decree). In addition, the specified Decree contains the concept of "products safe for life, health and property of people and the environment", but its definition is not provided.

The Law of Ukraine " On Pesticides and Agrochemicals" dated March 2, 1995 No. 86/95-BP [354] , emphasizing the importance of the issue of the safety of agricultural products, establishes requirements for the safety of agricultural raw materials. In particular, the specified Law stipulates that agricultural raw materials must meet sanitary requirements regarding the maximum limits of residues (maximum permissible level of residues) of pesticides and agrochemicals. Agricultural raw materials that cannot be used are subject to removal, disposal and destruction.

The Constitution of Ukraine of 1996 [325], as a document of the highest legal force, creating a legal basis for ensuring the safety and quality of agricultural products, in Articles 42, 48, 49 and 50 established the rights of everyone to an environment safe for life and health and to compensation for violations this right to harm, guaranteed the right to free access to information about the state of the environment, about the quality of food products and household items, as well as the right to its dissemination. In addition, the state recognized the obligation to ensure the sanitary and epidemic well-

being of the population and to protect the rights of consumers, to monitor the quality and safety of products. Thus, the Constitution of Ukraine established not only the rights and freedoms of a person and a citizen, but also created the basis of the mechanism of their protection against illegal actions of state authorities, local governments, their officials and officials, which is further specified in the current legislation [320, p. 68].

For the first time, the concept of "food safety" and, together with it, the concept of "food product quality", were officially defined in the Law of Ukraine "On the Quality and Safety of Food Products and Food Raw Materials" dated 12.23.1997 No. 771/97-BP [358]. Thus, the concept of "quality of a food product" was understood as a set of properties of a food product, which determines its ability to meet the needs of the human body in energy, nutrients and aromatic substances, safety for its health, stability of composition and consumer properties during the period of suitability for consumption. The safety of food products was defined as the absence of toxic, carcinogenic, mutagenic, allergenic or other adverse effects of food products on the human body when consumed in generally accepted quantities, the limits of which are established by the Ministry of Health of Ukraine.

At the same time, unlike, for example, the biological value of a food product, its safety was not determined as an indicator of the quality of a food product. However, only safety and quality, according to the norms of the specified Law, were the subject of state regulation and regulation, which indicates the leading role of food product safety among other indicators of its quality.

Later, on 14.01.2000, the Law of Ukraine "On withdrawal from circulation, processing, disposal, destruction or further use of substandard and dangerous products" No. 1393-XIV was adopted, which established the criteria for determining dangerous and substandard products. In particular, dangerous and low-quality products include products that do not meet the requirements of the normative legal acts and regulatory documents in force in Ukraine regarding the relevant types of products regarding their consumer properties; products that do not meet the mandatory requirements of the normative legal acts and normative documents in force in Ukraine regarding their safety for human life and health, property and the environment; products for which

there are no relevant documents provided by law, confirming the quality and safety of products, etc.

From that time, the rule-making activity was aimed at improving the mechanism of legal regulation of the safety and quality of products, including agricultural products. In particular, acts that are the results of the specified activity include Resolution of the Cabinet of Ministers of Ukraine dated 04.01.1999 No. 12 "On approval of the list of food additives permitted for use in food products" [347], Decree of the President of Ukraine dated 07.08.2001 No. 601 /2001 "On measures to develop the food market and promote the export of agricultural products and food products" [350], order of the Ministry of Agrarian Policy of Ukraine dated September 19, 2001 No. 278 "On measures to develop the food market and promote the export of agricultural products and food products" [351], the Program for the Integration of Ukraine into the European Union, approved by the Decree of the President of Ukraine dated 14.09.2000 No. 1072/2000 [355], the Order of the Ministry of Health of Ukraine dated 09.10.2000 No. 247 "On Approval of the Temporary Procedure for Conducting State Sanitary and Hygienic Examination " [348], Law of Ukraine dated 05/17/2001 No. 2408-III "On Standardization" [356], Law of Ukraine dated 06/04/2009 No. 1445-VI "On identification and registration of animals" [352], etc.

Emphasizing the special importance of the legislation regulating agricultural relations, one of the components of which is the legislation on the safety and quality of agricultural products, on 02.06.2004 the Ministry of Justice of Ukraine issued order No. 43/5 "On approval of the Classifier of branches of the legislation of Ukraine" [346], which, in particular, such areas of legislation as "Agricultural crops and separate branches of agriculture (140.120.000)" and "Agricultural products. Purchase and delivery of agricultural products (140.160.040)".

Thus, the main achievement of the second stage of legal regulation of the safety and quality of agricultural products is the separation from the concept of "product quality" of the concept of "product safety" and its main features.

However, a significant step in the history of legal regulation of public relations on issues of safety and quality of agricultural products is the adoption of the laws of

Ukraine "On the protection of consumer rights" [349] (as amended by Law No. 3161-IV dated 01.12.2005) and "On the safety and quality of food products » [344] (as amended by Law No. 2809-IV dated 06.09.2005), with the adoption of which we associate the beginning of the third stage in the legal regulation of the field of safety and quality of agricultural products.

Thus, the Law of Ukraine "On the Protection of Consumer Rights" (as amended by Law No. 3161-IV dated 01.12.2005), compared with the same Law as amended in 1991, emphasizing the undeniably close connection between product safety and quality, but not their identity, separates the consumer's right to product safety from the right to quality products, more clearly delineates the very concepts of product quality and safety, understanding the latter as the absence of any risk to life, health, property of the consumer and the natural environment under normal conditions of use, storage, transportation, production and disposal of products. In addition, the amendments to the Law include the classification of product defects ("defect" and "significant defect") and the introduction of the concept of "adequate product quality", which is understood as a property of products that meets the requirements established for this category of products in normative legal acts and normative documents and terms of the contract with the consumer. Also, the legislator quite justifiably indicated the inexhaustibility of the list of consumer rights, which was exhaustive in the version of the 1991 Law.

Regarding the Law of Ukraine "On the Safety and Quality of Food Products" in the 2005 edition of the Law, the following provisions are new.

Thus, the legislator defines the concept of "food product safety", while earlier it was defined only by the concept of "product safety". However, we note that, analyzing the provisions of both the specified Law and the laws of Ukraine "On the quality and safety of food products and food raw materials", "On the protection of consumer rights" in the version of the laws of 1991 and 2005, as well as other laws and by-laws that regulate issues of product safety and quality, it can be concluded that the terms "safety" and "security" are used as synonyms in the specified normative acts. However, such a conceptual diversity arose due to the imperfection of the translation of basic legal acts from the Russian language into Ukrainian, since the concepts of "safety" and "security"

have similar definitions. However, in our opinion, the very concept of "safety" characterizes an object as one that does not cause and/or should not cause harm to it, and therefore, this very concept most fully reflects the essence of the legal category "safety of agricultural products".

In addition, the Law distinguishes such categories of food products as "safe", "dangerous", "suitable", "unsuitable (altered)". However, despite the complex and all-encompassing nature of the Law, it does not define one of the main legal categories - "quality food". However, this concept can be determined from the legally formalized concept of "food product quality", the content of which we will reveal further.

As M. Kuzmina rightly points out, it is quite necessary to ensure legal regulation of relations regarding safety and quality, precisely taking into account the dynamics of the development of modern market relations, which requires the adoption of new acts or the coordination and periodic revision of existing ones [328, p. 125]. Analysis of the Law of Ukraine "On the Safety and Quality of Food Products" made it possible to highlight some of its debatable provisions.

Thus, the existence of the concept of "dangerous food product" in the Law, which means a food product that does not meet the requirements established by this Law, seems controversial. An analysis of the provisions of the Law shows that today there are a significant number of requirements for a food product, in particular requirements for its safety, suitability, compliance with sanitary measures and technical regulations, quality, labeling, packaging, etc. However, it seems possible that a situation where even a minor non-compliance of an agricultural product with the requirements established by the Law (for example, product packaging requirements), which can be eliminated without significant expenditure of time and money, will lead to the fact that such products will be recognized as dangerous, which will cause significant economic losses of the producer (seller, consumer) of such products. Taking into account the above, we believe that the exclusion of the specified concept from the Law would not affect the level of legal regulation of the safety and quality of agricultural products, and the concepts of "food product safety" and "safe food product" given in the Law form a

sufficient legal basis for the regulation of legal relations and provide an opportunity to define this or that food product as safe or dangerous.

Also, defining the concept of "unsuitable ("adulterated") food product", the legislator provides the criteria for determining such unsuitability. In particular, a food product containing a poisonous or harmful substance that makes it dangerous for human health is considered unfit (except for substances that are not added substances, if such substances are present at levels that are not considered harmful to health person). However, by adding the specified condition, the legislator creates a significant contradiction, which can be explained by the following example. Agricultural products (for example, grain) are transported in containers that were made using harmful (for example, toxic) substances, which created a threat to human health. According to the definitions given by the legislator, the specified container is a "dangerous factor", and the mentioned agricultural products are unusable, because, firstly, they were in a container that was partially or completely composed of harmful substances, which can make the products dangerous for human health; secondly, was in circulation in such a way or under such conditions that it could cause its contamination and danger to human health. However, the legislator specifies a condition, in compliance with which the specified agricultural products will not be considered unsuitable, namely: the substances are not poisonous or harmful, if they are present at levels that are not considered harmful to human health. That is, if the fact is established that the level of harmfulness or toxicity of substances is within the permitted limits, then under the same circumstances stipulated by us, agricultural products that were exposed to such substances can be considered suitable. However, based on the concept of "polluting substance" specified in the Law, the existence of the mentioned permitted limits is called into question. Thus, any biological substance, including organisms, microorganisms and their parts, or a chemical substance, foreign admixture or other substance that *poses a threat is recognized as a pollutant* (our italics. – V.K.) safety and suitability of the food product. Based on the above, even *the possibility* (italics ours. - V.K.) the presence of harmful or poisonous substances in a food product is unacceptable and gives such products the status of unsuitable, dangerous and

contaminated [318, p. 79]. As we can see, under such conditions, such negative consequences as unequal application of the same rule of law in the same legal relationship are quite possible; abuse by bodies that control and supervise compliance with the legislation on the safety and quality of agricultural products; manifestations of dishonest business practices or other violations of the current legislation of Ukraine on the part of economic entities during their economic activities, etc. In view of this, we consider it expedient to exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "unfit (" adulterated ") food product".

The next controversial provision appears to be the definition of the concept of "food product quality" as the degree of perfection of the properties and characteristics of a food product that can satisfy the needs (requirements) and wishes of those who consume or use this food product.

First, the concept of "perfection" in modern language means the following: the completeness of all advantages, the highest degree of any positive quality [340]; the peak of perfection, the highest limit of mastery of something [366]; the completed state of this or that phenomenon [302]; the horizon, which all the time moves into the future as one approaches it [359, p. 71].

Systematizing the specified definitions, we can reach a generalized conclusion that perfection is the state of the highest completeness, completeness of the phenomenon [321, p. 82]. Therefore, a perfect phenomenon cannot be improved, and therefore perfection cannot have any gradations, including degrees.

Secondly, the specified definition does not specify the conditions under which this or that food product should be used. For example, a person who bought tea and uses it not for its intended purpose (that is, in a way that is not generally accepted for this type of food, or not in a way that is recommended by the manufacturer of such a food product), but in order to achieve a state of narcotic intoxication Yaninya will probably say that the product she uses is *just for her* (our italics. - V.K.) is of high quality, as it is able to satisfy her needs (requirements) and wishes (in accordance with the legal norm). However, taking into account the above provisions that product safety is an

integral component of its quality, it is hardly possible to assert the quality of the specified product under the simulated conditions of its use. Therefore, we believe that the legislator in the definition of "quality of a food product" should clearly indicate the conditions under which a particular product can be recognized as high-quality. Such conditions, in particular, should be the usual (generally accepted, reasonably foreseeable) conditions of use, or the conditions recommended by the manufacturer of such a food product (that is, use (consumption) as intended). Under such circumstances, the information indicated on the food product acquires the status of a mandatory element in the mechanism of ensuring product safety and quality.

Thirdly, the specified definition of the quality of the food product does not contain any mention of its safety. As noted earlier and rightly pointed out by S. M. Romanko [361, p. 11], V. Z. Yanchuk [288, p. 255] and T. G. Kovalchuk [323, p. 25], the safety of agricultural products is one of the indicators of its quality, and therefore, dangerous agricultural products cannot be recognized as high-quality in any way. In addition, the legislator himself, indicating that a food product that does not meet the requirements established by the Law is dangerous, indirectly indicates the need, in particular, to comply with the requirements regarding the safety of the food product.

In addition, the provision of Clause 2 of Part 4 of Article 30 of the analyzed Law, which directly concerns ensuring the appropriate level of quality and safety of food products, is considered declarative and not properly implemented. Thus, according to the specified provision, a food additive is allowed for use in Ukraine under conditions, if this food additive does not represent a danger to the health of the consumer at the level of use at which it is proposed, which can be established on the basis of available scientific evidence. So, for example, food additive E 250 Sodium nitrite (sodium nitrite), according to the Resolution of the Cabinet of Ministers of Ukraine No. 12 dated 04.01.1999 "On approval of the list of food additives permitted for use in food products" [347], is permitted for use in food products in Ukraine. However, this additive is prohibited for use in the countries of the European Union. This shows that at this time there is scientific justification for the impossibility of using the specified

food additive in food products. However, despite this, contrary to the provisions of Clause 2 of Part 4 of Article 30 of the Law of Ukraine "On the Safety and Quality of Food Products", the mentioned food additive was not removed from the list of permitted use. The above shows that the provisions of the specified Law are purely declarative, as neither the grounds for determining the existence or non-existence of adequate scientific evidence regarding the safety of a certain food additive, nor the criteria for the availability of such scientific evidence are provided for.

Taking into account the above, we have every reason to assert the imperfection of the current legislation of Ukraine, which regulates public relations regarding the safety and quality of agricultural products, in connection with which we offer the following:

1. The concept of "food product quality" given in Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" should be defined as follows:

"The quality of a food product is a set of essential properties of a food product, which, under the reasonably foreseeable, usual or such conditions of use as prescribed in a regulatory legal act or contract, do not pose any or pose acceptable risks both for consumers of such a product and for the natural environment, and are able to satisfy the predetermined needs of such consumers". At the same time, the definition of the concept of "quality of agricultural products" is derived from the specified definition and identical to it [291, p. 189].

2. Exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "unfit (adulterated) food product" as something that complicates the mechanism of legal regulation of the safety and quality of agricultural products and creates the possibility of the existence of such negative consequences as unequal application of the same rule of law in the same legal relationship; abuse by bodies that control and supervise compliance with the legislation on the safety and quality of agricultural products; manifestations of dishonest business practices or other violations of the current legislation of Ukraine on the part of economic entities during their economic activities, etc.

3. Exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "dangerous food product" as something that

complicates the mechanism of legal regulation of the safety and quality of agricultural products.

4. Amend paragraph 12 of part 1 of article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" by wording it as follows: "a safe food product is a food product that is reasonably foreseeable, normal or as established in the regulatory legal act or contract, the conditions of its intended use, does not directly or indirectly pose any or acceptable risks both for consumers of such products and for the natural environment under the conditions of its production, circulation and consumption in compliance with the requirements of the current legislation of Ukraine. In any case, a food product cannot be recognized as safe if it contains poisonous, harmful, or other substances of natural or anthropogenic origin, the use or consumption of which has a harmful effect on human life and health and the state of the natural environment (viruses, disease-causing bacteria, pesticides in agricultural raw materials, food additives, dyes, medicines for animals, other biological and chemical compounds, etc.), except for those whose conditions and quantity of use are permitted by the current legislation of Ukraine, including current international treaties of Ukraine." At the same time, the definition of the concept of "safety of agricultural products" is derived from the specified definition and identical to it.

5. Taking into account the above proposals, bring the laws of Ukraine, other normative legal acts related to the safety and quality of products, in particular agricultural products, into compliance with the norms of the Law of Ukraine "On the Safety and Quality of Food Products".

However, even these measures cannot solve all the problems of legal regulation of the safety and quality of agricultural products. One should agree with the opinion that one of the possible ways to improve the legislation on the safety and quality of agricultural products may be the adoption of a single normative legal act that would comprehensively regulate the entire scope of legal relations in the specified area [341, p. 67, 334, p. 34].

Given that the legislation regulating the safety and quality of agricultural products is complex, legally heterogeneous, it includes norms of various branches of law [319,

p. 33], in order to ensure the unity and coherence of all normative legal acts in this area and bring them into a single system, it is necessary to adopt the Law of Ukraine "On the Production and Circulation of Safe and High-Quality Agricultural Products", which could have the following structure:

Preamble (Purpose of adopting the law; Scope of the law).

Section 1. General provisions (Terms and their definitions; Legislation on the safety and quality of agricultural products).

Section 2. Legal forms of regulation of requirements for agricultural products (Standardization; Certification; Compliance of agricultural products with international requirements).

Section 3. State regulation of the safety and quality of agricultural products (The concept of state regulation of the safety and quality of agricultural products; Principles of state regulation of the safety and quality of agricultural products; Participants in the process of production and circulation of agricultural products; Basic measures of state regulation of the safety and quality of agricultural products; State regulation of stage of production of agricultural products; State regulation at the stage of circulation of agricultural products; Measures to stimulate the production of safe and high-quality agricultural products; Bodies carrying out state regulation of the safety and quality of agricultural products, their competence).

Section 4. Rights and obligations of other participants in the process of production and circulation of agricultural products (List of other participants in the process of production and circulation of agricultural products (enterprises carrying out storage, protection, transportation, intermediary structures, other infrastructure); Basic rights and obligations other participants in the process of production and circulation of safe and high-quality agricultural products).

Section 5. Control and supervision of compliance with legislation on the safety and quality of agricultural products (System of bodies that control and supervise compliance with legislation on the safety and quality of agricultural products; Competence of bodies that control and supervise compliance with legislation on the safety and quality of agricultural products products).

Chapter 6. Liability for violations of the legislation on the safety and quality of agricultural products (Legislation on liability for violations of the legislation on the safety and quality of agricultural products; Types of liability for violations of the legislation on the safety and quality of agricultural products).

Section 7. Final Provisions.

Of course, we proposed only the general structure of the draft Law, but it can be taken as a basis during the development of the draft of the specified Law, since its provisions are structured in such a way as to take into account the complexity of the legislation on the safety and quality of agricultural products as much as possible, the norms of which are contained in various branches rights.

Therefore, the draft of the Law of Ukraine "On the Production and Circulation of Safe and High-Quality Agricultural Products" proposed by us is designed to eliminate the multiplicity of normative acts regulating uniform legal relations, exclude duplication of norms, eliminate gaps and conflicts, could become the basis for the development of relevant legislation, provide certain guarantees safety and quality of agricultural products, to promote proper protection of consumer rights, as well as to solve other urgent problems. At the same time, the correlation of the specified Law with the Law of Ukraine "On the Safety and Quality of Food Products" should be such that the latter Law should establish the general principles of safety and quality of all food products, while the specification of such general provisions should take place in our proposed Law.

At the same time, the adoption of the specified Law does not exclude the by-law regulation of issues of safety and quality of agricultural products.

Thus, using the already existing experience of creating regional documents aimed at ensuring the safety and quality of agricultural products (for example, the Program for the Promotion of Product Quality and Competitiveness of the Republic of Crimea for 2002-2007, the Program for the Protection of Consumer Rights for 2003-2007, etc.), we consider it is expedient to create appropriate local programs for the development of the agricultural sector, the scope of which would be extended according to territorial (by regions), geographical and climatic (mountainous, steppe,

coastal and other parts of the country, etc.) and other principles, the necessary element of which would be the promotion of production and circulation safe and high-quality agricultural products. In addition, after the implementation of the specified local programs, after analyzing the conclusions obtained as a result of their implementation, it would be appropriate, in our opinion, to develop a national program for promoting the development of production and circulation of safe and high-quality agricultural products, which would take into account the peculiarities of each individual region of the country, current legislation of Ukraine, including the requirements of international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine, as well as proposals of scientists (specialists in the field of law, economics, agriculture, etc.) and practical workers whose activities are directly or indirectly related to the issues safety and quality of agricultural products.

Conclusions

The development of views regarding the understanding of the concepts of "safety" and "quality" took place in several stages: (1) philosophical justification of the concept of "quality" and its definition as the most general concept ("quality" is a general philosophical concept); (2) justification of the concept of "quality" as a scientific category ("quality" is a special scientific concept); (3) introduction of the scientific categories "safety" and "quality" into real social relations ("safety" and "quality" are applied concepts).

All definitions of the concept of "product quality" can be classified into three groups: the first group - definitions of the economic content, which establish only requirements for the consumer value of products; the second group – determination of the legal content, establishing the need to establish product quality requirements in certain legal acts; the third group - complex definitions that take into account both the objective (need to establish requirements for product quality in certain legal acts) and the subjective (ability of products to satisfy consumer needs) side of the concept of "product quality". In our opinion, the meaning of the concept of "product quality" can

be determined most fully by taking into account the economic and legal aspects in their totality, that is, by applying a comprehensive approach.

The legal regulation of public relations arising from the safety and quality of agricultural products has undergone three stages in its development: the first stage lasted from 1923 to 1991 and was characterized by the lack of distinction between the concepts of "product safety" and "product quality", as well as one of the earliest official confirmations not only of the definition of the concept of "product quality", but also of its economic and legal features; the second stage lasted from 1991 to 2005 and was associated with the adoption of the Law of the Ukrainian SSR "On the Protection of Consumer Rights" on 12.05.1991, which was characterized by separating the concept of "product safety" and its main features from the concept of "product quality"; the third stage, which began in 2005 and continues until now, is related to the adoption of the laws of Ukraine "On the protection of consumer rights" and "On the safety and quality of food products", which not only separate the consumer's right to product safety from the right to quality products, but also more clearly distinguish the very concepts of product quality and safety, classify product defects ("defect" and "significant defect"), define the concept of "adequate product quality", point out the inexhaustibility of the list of consumer rights in this area.

The quality of agricultural products as a complex legal category has certain indicators: safety, transportability, technological, economic, aesthetic, patent-legal, biological, etc., which can be classified as follows: (1) according to the degree of obligation to take them into account when assessing the quality of agricultural products: mandatory (for example, environmental safety) and optional (for example, aesthetic indicators); (2) according to the form of manifestation: actually existing and standardized; (3) by content: quantitative (eg cost) and qualitative (eg safety); (4) depending on the stage (cycle) in which agricultural products are: production and consumer. At the same time, it should be noted that neither the specified classification criteria nor the elements of such classifications can be considered exhaustive and existing in an unchanged form, since the presence or absence of certain criteria, their

names and content may change depending on specific circumstances, including from the level of development of science and technology.

The concept of "quality" and, together with it, the concept of "safety" as its component have the following main features: (1) a set of essential product properties that are decisive for this specific product and are established in the relevant legal acts: standards, regulations, technical conditions, etc. ; (2) agricultural products may not pose any or may pose acceptable risks for the consumer under the reasonably foreseeable, usual or conditions of use of such products (product safety); (3) taking into account the impact of agricultural products on the surrounding natural environment when determining them as safe and/or high-quality, since both agricultural products and the surrounding natural environment influence each other; (4) the properties of the products are able to satisfy the predetermined needs of the consumer of such products.

Based on the results of the analysis of the Law of Ukraine "On the Safety and Quality of Food Products": (1) we suggest that the concept of "quality of a food product" given in part 1 of Article 1 of this Law be expressed as follows: "The quality of a food product is a set of essential properties of a food product a product that, under the conditions of its intended use that are reasonably foreseeable, normal, or such as are established in a regulatory legal act or contract, does not pose any or poses acceptable risks both for consumers of such a product and for the natural environment, and is able to satisfy the predetermined needs of such consumers". At the same time, the definition of the concept of "quality of agricultural products", taking into account the characteristics of agricultural products (grown as a result of the action of biological processes, has a natural origin from the earth and/or from living biological organisms, etc.), is derived from the specified definition; (2) it is seen that today there are a significant number of requirements for a food product, in particular, requirements for its safety, suitability, compliance with sanitary measures and technical regulations, quality, labeling, packaging, etc. However, it seems possible that a situation where even a slight non-compliance of an agricultural product with the requirements established by the Law, which can be eliminated without significant expenditure of time and money, will lead to the fact that such products will be recognized as

dangerous, which may cause significant economic losses to the producer (seller, consumer). such products. Taking into account the above, we believe that the exclusion of the concept of "dangerous food product" from the Law of Ukraine "On the Safety and Quality of Food Products" will not affect the level of legal regulation of the safety and quality of agricultural products, but the concepts of "food product safety" and "safe food product" given in the Law product" form a sufficient legal basis for regulating legal relations and make it possible to determine a particular food product as safe or dangerous; (3) it can be concluded that defining "unfit (adulterated) food product", the legislator specifies the criteria for determining such unfitness, including the presence of a contaminant. Even the possibility of the presence of harmful or poisonous substances in a food product is unacceptable and gives such products the status of unsuitable, dangerous and contaminated. As we can see, under such conditions, such negative consequences as unequal application of the same rule of law in the same legal relationship, etc., are quite possible, given that, in our opinion, it is necessary to exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food products" concept of "unfit (adulterated) food product"; (4) we propose to amend Paragraph 12 of Part 1 of Article 1 of this Law by wording it as follows: "a safe food product is a food product that, under the reasonably foreseeable, normal or conditions established in a regulatory act or contract, intended use does not directly or indirectly pose any or acceptable risks both for consumers of such products and for the natural environment under the conditions of its production, circulation and consumption in compliance with the requirements of the current legislation of Ukraine. In any case, a food product cannot be recognized as safe if it contains poisonous, harmful or other substances of natural or anthropogenic origin, the use or consumption of which has a harmful effect on human life and health and the state of the natural environment (viruses, disease- causing bacteria, pesticides in agricultural raw materials, food additives, dyes, medicines for animals, other biological and chemical compounds, etc.), with the exception of those whose conditions and quantity of use are permitted by the current legislation of Ukraine, including current international treaties of Ukraine". At the same time, the definition of the concept of "safety of agricultural products", taking

into account the peculiarities of agricultural products (grown as a result of the action of biological processes, has a natural origin from the earth and (or) from living biological organisms, etc.), is derived from the specified definition.

In order to analyze the reasons for the unsatisfaction of certain human needs from the consumption of one or another agricultural product and the reduction of its competitiveness on the market, it is advisable to use the economic model of Gaps (GAP) as such, which takes into account not only the objective, but also the subjective characteristics of such products, that is, its ability to satisfy certain consumer needs. Moreover, according to the specified model, an agricultural product is of high quality if there is no gap between the perception of the product and the expectations regarding this product. The existence of the specified gap arises due to certain reasons (so-called "Discontinuities").

It is necessary not only to develop and implement a national program to promote the development of production and circulation of safe and high-quality agricultural products, but also relevant local programs for the development of the agricultural sector, the scope of which would be extended by territorial (by regions), geographical and climatic (mountain, steppe, coastal and other parts of the country, etc.) and other principles, a necessary element of which would be to promote the production and circulation of safe and high-quality agricultural products.

Considering the fact that the legislation regulating the safety and quality of agricultural products is legally heterogeneous, contains norms of different branches of law, in order to ensure the unity and coherence of all normative legal acts in this area and to bring them into a single system, the adoption of the Law is necessary of Ukraine "On the production and circulation of safe and high-quality agricultural products" as a comprehensive regulatory act that regulates social relations that arise, change and cease in the process of production and circulation of agricultural products.

The introduction of legal and economic mechanisms for the activity of systemic (complex) agricultural enterprises in Ukraine, which could fully serve the entire food cycle - development or selection (selection and hybridization), cultivation, harvesting, primary processing, storage, transportation, implementation, consumption, and

therefore create the most favorable conditions for ensuring a high level of safety and quality of agricultural products. In other words, it is necessary to ensure the conditions for the existence of technological unity throughout the entire "life" of the product - from its development to final consumption, which is impossible without the unification of subjects involved in the production of such products.