

Research Article

Administrative and Legal Support of Food Security under the Restrictive Regime for Cultivating Narcotic-Containing Plants: From Prohibition to Incentivising Economic and Investment Activity

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Abstract

Aim: The article examines the administrative and legal regime for cultivating narcotic-containing plants in Ukraine as an instrument that simultaneously serves two public interests: Countering the illicit trafficking of narcotic drugs and ensuring food security. It is substantiated that this regime has been constructed one-sidedly: The prohibitive, licensing and control components are regulated in detail at the level of a law and are reinforced by administrative liability, while nothing on the other side of the balance encourages business entities to invest in or to expand such activity. As a result, the food potential of plants that fall within the schedules (oil poppy, hemp for industrial purposes) remains unrealised, while the vacated niche is filled by the illicit sector.

Methods: The study applies the formal-legal method (doctrinal analysis of the law of Ukraine “on narcotic drugs, psychotropic substances and precursors” as amended in 2023, the code of Ukraine on administrative offences, the schedules and quota acts of the cabinet of ministers, and the departmental act establishing the register of industrial hemp producers); the comparative-legal method (Ukraine against regulation European Union (EU) 2021/2115 and the framework of the 1961 and 1988 United Nations (UN) conventions); the systemic method, which allowed the cultivation regime to be considered as an integral object; the logico-semantic method for delimiting the notions of cultivation, quota, restriction and incentive; analysis and synthesis; and legal modelling for the authors’ own construction.

Results: An asymmetry between the restrictive and the incentivising components of the regime has been established. It is shown that food security, as the object of administrative and legal support, has no statutory foundation in Ukraine: The relevant draft law was adopted by parliament in 2011, vetoed, and rejected in 2012, so that the object is defined only by a government act. A conflict has been identified between the threshold of tetrahydrocannabinol fixed by the law and that retained by the subordinate schedules. Two different quota models operating within a single schedule have been distinguished. A divergence has been

found between the declarative principle of registration prescribed by the law and the inter-register verification model actually implemented by the departmental act. The authors substantiate the construction “restriction plus compensatory incentive”.

Conclusion: The lawfulness of administrative restrictions on economic activity in this sphere should be assessed not only by the legitimacy of the aim and the proportionality of the measure, but also by the presence of a corresponding compensatory instrument opened by the very same legal fact that gives rise to the restriction. Directions for amending the legislation of Ukraine are proposed.

Keywords: Administrative and legal support, Food security, Cultivation of narcotic-containing plants, Licensing regime, Crop substitution, Business entities, Investment activity, Investing, Investments, State support of agriculture, Customs formalities

Introduction

Scholarship on the illicit traffic in narcotic drugs, psychotropic substances and precursors has long approached it through prohibition and punishment, and the administrative and legal literature of Ukraine has devoted considerable attention to state control in this sphere [1] and to the comparison of national regulation with that of the European Union (EU) [2], including the foreign experience of combating crime connected with such trafficking [3]. Much less attention has been paid to a circumstance that follows directly from the nature of the object of control: A number of plants included in the schedules of narcotic

drugs are at the same time agricultural crops, and some of them are food crops. The oil poppy is a source of edible oil and confectionery seed; hemp for industrial purposes yields seed, protein, oil and fodder raw material. Consequently, the condition of the lawful economic turnover of these plants is not a side issue of anti-drug policy but one of its factors: Where lawful cultivation is administratively overburdened and economically unattractive, the niche is occupied by the illicit sector.

The scale of the lawful segment in Ukraine is indicative. For 2026 the cabinet of ministers of Ukraine approved the volume of quotas within which the cultivation of plants containing narcotic drugs and psychotropic substances is carried out, and that volume holds one position only: The opium poppy (*Papaver somniferum* L), 814 hectares of sowing area for the whole country [4]. Expressed in hectares rather than in tonnes, such a quota limits not the output but the very access to the land-based activity.

The state of scholarship justifies raising the question. Research into the administrative and legal instruments for ensuring food security remains, as Andrukhov states, essentially unexplored, and the author points to gaps and shortcomings of a legal and organisational character connected with the implementation of such instruments [5]. The doctrine of food security itself is heterogeneous: Pustovit treats food security as a component of national security [6]; Fomenko criticises the simplified, narrowed interpretation of food security exclusively as a component of the economic security of the state, since such an approach does not cover the whole range of social, ecological and humanitarian factors [7]; Kuzmichov goes further and proposes to recognise the law of food security as a branch of special administrative law governing relations of public administration in the part of ensuring the uninterrupted functioning of the food system of Ukraine and the economic and physical accessibility of quality and safe food products for the population [8]; Tryhub, writing at the beginning of the previous decade, had already noted that national food security had not previously been the object of thorough research [9]. None of these authors, however, considers narcotic-containing plants as a subject of food policy, and the regime of their cultivation is examined in the anti-drug literature in isolation from the economic and investment dimension.

The authors have previously addressed adjacent problems: The models of delegated market regulation applicable to the market of soft drugs, where the replacement of self-regulatory organisations by a regulatory agency with a special status was substantiated as the most suitable scenario [10], and the personnel component of countering drug crime within the system of public service [11].

This article asks whether Ukraine's regime for cultivating narcotic-containing plants holds any instrument able to realise the food potential of those crops and, finding none, proposes a criterion against which the restrictions imposed may be judged lawful.

Methods

The aim determined the choice of methods. Doctrinal analysis served to interpret the legislation of Ukraine on narcotic drugs, the schedules and quota acts of the government, the departmental act on the register of industrial hemp producers and the provisions on administrative liability, and to expose the conflict between the law and the subordinate act over the threshold of tetrahydrocannabinol. Comparison juxtaposed the national construction with regulation European Union (EU) 2021/2115 and with the conventional framework of 1961 and 1988. A systemic view allowed the cultivation regime to be treated as an integral object of subjects, requirements, norms and procedures rather than a set of isolated prohibitions, while logico-semantic analysis delimited cultivation, quota, restriction and incentive and traced the dependence of the customs status of goods on a laboratory indicator. Legal modelling yielded the authors' own construction and the draft provisions proposed below.

Results and Discussion

Food security as the object of administrative and legal support

The category of food security is read in the administrative and legal doctrine of Ukraine along several lines, and the choice between them predetermines the choice of instruments. Pustovit, in a dissertation for the degree of doctor of laws, proceeds from the thesis that food security belongs to national security and that supplying the population with food is among the fundamentals of preserving statehood and sovereignty [6]. Tryhub, reproducing the view of

Berlach and Filipenko, treats it as a level of supply that guarantees “the survival and development of the nation, the individual and the family” [9].

Fomenko objects to narrowing the category to an economic dimension: Treating food security “exclusively as a component of the economic security of the state” leaves out its social, ecological and humanitarian factors [7]. The furthest-reaching position is that of Kuzmichov, who would constitute “the law of food security” as a branch of special administrative law [8].

These positions reflect different levels of generality rather than exclude one another, and yet the difficulty surfaces the moment one turns from doctrine to the positive law in force. Ukraine’s strategy of food security up to 2027 does describe the matter as “a component of the national security and defence of Ukraine” [12]-but that wording belongs to an act of the government. A law of Ukraine on food security does not exist: The draft passed on 22 December 2011 was returned with the presidential veto on 10 January 2012 and rejected on 5 July 2012, its recorded status being rejected and removed from consideration [13]. The want of a profile law is noted in the doctrine as a separate scholarly task [5].

This produces a defect in the very structure of justification. The restrictions on the cultivation of narcotic-containing plants are established by a law and reinforced by a codified act on administrative liability, while the aim by reference to which those restrictions could be justified-food security-is fixed only by an act of the government. The restriction thus possesses greater legal force than its own purpose. For a system of incentives this has a direct consequence: Incentives have nothing to attach to, since the legislature has not defined the object in whose favour they would operate.

The restrictive regime for cultivation: The structure of the prohibition

The classificatory basis of the regime is formed by the schedules of narcotic drugs, psychotropic substances and precursors approved by the cabinet of ministers of Ukraine [14]. Schedule number 3 of Table 1 covers plants whose turnover are permitted for industrial purposes and includes plants of the species opium poppy (*Papaver somniferum* L), expressly described as including the oil poppy, and plants of the genus *Cannabis*. Schedule number 4 of Table 1 covers plants of the genus *Cannabis* belonging to the group

of medicinal plant crops. The note to schedule number 3 establishes two quantitative requirements: The cultivation of opium poppy for the production of seed is permitted only where the seed is harvested from varieties whose dry straw contains no more than 0.15 per cent of morphine, and the cultivation of hemp for industrial purposes is permitted where the seed is harvested from varieties whose dry straw contains no more than 0.2 per cent of tetrahydrocannabinol, with the threshold of 0.3 per cent becoming applicable from 16 February 2027 [14].

The amendments of 2023 introduced into the law of Ukraine “on narcotic drugs, psychotropic substances and precursors” a division of *Cannabis* into hemp for industrial purposes, whose dry straw contains no more than 0.3 per cent of tetrahydrocannabinol and which belongs to the group of agricultural crops, and *Cannabis* for medical purposes, whose content equals or exceeds that figure and which belongs to the group of medicinal crops [15]. The same amendments excluded the sowing and growing of hemp for industrial purposes from the notion of cultivation and provided that the law does not extend to the regulation of the production and turnover of raw material and products of the processing of industrial hemp, save where such regulation is expressly prescribed by the law itself [16].

Hence the first conflict: The law already operates with the threshold of 0.3%, whereas the subordinate schedules retain 0.2% until 16 February 2027-that is, the subordinate act imposes a stricter requirement than the law, although the law empowers the government to establish the maximum permissible content only where the law itself does not provide otherwise [16]. The subject-matter of the two requirements also differs: The schedules regulate the variety of the seed, while the law regulates the harvested product, the content of which is established by laboratory testing. A producer therefore has no unambiguous answer as to the threshold against which the harvest will be assessed, and the consequence of error is the destruction of the entire crop.

The inventory of restrictions is extensive. Turnover of plants of Table 1 is prohibited except on the grounds prescribed by the law; cultivation requires a licence issued for five years, and both the decision and the licensing register name the permitted varieties together with the area and the geographical coordinates of the premises concerned [16]. Cultivation of plants of schedule number 4 proceeds within

governmental quotas, in closed ground, with certified seed not lower than the second generation and round-the-clock video surveillance accessible to the national police; the places of such activity, save for industrial hemp, are guarded by units of the protective police on a contractual basis. The content of tetrahydrocannabinol is established by laboratory testing under two procedures, harvesting is prohibited until the results are obtained, and where the level is exceeded the whole harvest is destroyed [16].

It is worth noting that the restrictive construction has a conventional prototype, and that the prototype was transferred incompletely. Article 22 of the single convention on narcotic drugs of 1961, as amended by the 1972 protocol, obliges a party to prohibit cultivation whenever the prevailing conditions render such prohibition “the most suitable measure, in its opinion, for protecting the public health and welfare” [17]. The prohibition is thus discretionary, from which it follows that a state which has not chosen complete prohibition assumes the task of constructing a positive regime of economic activity. Article 23 of the same convention describes the model of a national agency which designates the areas and the plots of land on which cultivation is permitted, authorises only licensed cultivators, and provides that “each licence shall specify the extent of the land on which the cultivation is permitted” [17]. The Ukrainian legislature reproduced this instrument-the fixing of the area and the coordinates in the licence-yet left out the institution the model rests upon, for no specialised agency was set up.

The 1988 convention adds two considerations that are significant for the present subject. Measures to prevent illicit cultivation and to eradicate such plants “shall respect fundamental human rights and shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment”; and cooperation to increase the effectiveness of eradication efforts may include support for “integrated rural development leading to economically viable alternatives to illicit cultivation” [18]. Ukraine possesses a historical tradition of hemp growing, which makes the first of these provisions directly applicable, while the second formulates in the language of an international treaty precisely what the national regime lacks.

Two models of quotas and the price of legal uncertainty

Quotas on narcotic drugs and psychotropic substances, within which cultivation, production, manufacture, storage, import and export are carried out, are determined annually by the cabinet of ministers of Ukraine upon the submission of the central executive authority responsible for forming state policy in this sphere [16]. The resolution for 2026 carries, as noted above, one cultivation entry only-the opium poppy at 814 hectares-while a separate annex fixes gram-denominated quotas for production, manufacture, storage, import and export of each listed substance [4]. During the year the act was amended twice, in July and in September 2026 [4], which for a producer planning crop rotation means the absence of a stable planning horizon.

Cannabis is absent from the cultivation quotas altogether. For industrial hemp that agrees with the law, which keeps its sowing and growing outside quota regulation [16]. For *Cannabis* for medical purposes, however, the law requires cultivation to proceed within quotas determined by the government [16], and the procedure repeats the requirement and supplies the mechanism: The annual quota is distributed by the state service of Ukraine on medicines and drugs control upon simultaneous written applications of business entities, the undistributed volume going to them in proportion to the volumes they claimed [19].

The apparent gap is closed by an act adopted in the middle of the quota year. By a resolution of 27 May 2026 the government established that the application for the determination of a quota for the cultivation of plants included in schedule number 4 for 2026 is submitted by a business entity to the state service of Ukraine on medicines and drugs control within ten working days from the day on which information concerning the decision of the licensing authority to issue a licence is entered into the licensing register [20]. Consequently, the quota for schedule number 4 is not absent; it is established under a different model from that applied to schedule number 3-not by a general normative act in advance, but by an individual act of distribution upon the application of a licensee.

Three observations follow. First, two different quota models operate within a single Table of the schedules, and the normative acts offer no justification for the difference. Second, the rules governing access to the quota for 2026 became known in the middle of 2026, almost two and a half years after the reform of 2023, so that the mechanism was put into operation with a considerable delay. Third,

the period of ten working days is tied to an entry in the licensing register, yet the consequences of failing to observe it are not determined: Whether a licensee thereby loses the possibility of obtaining a quota for the whole year remains an open question of legal certainty.

The customs dimension of the regime

The external-economic part of the regime rests on customs categories. Import and export of narcotic drugs are defined by the law through their movement across the customs border of Ukraine, and transit through movement under customs control across its territory [16]. Permits for the right of import, export and transit are issued by the central executive authority implementing policy in this sphere, and the import and export of plants of schedule number 4 and of narcotic drugs proceed within governmental quotas [16], which the second annex to the quota resolution for 2026 expresses in grams for each substance [4]. The customs code describes customs formalities as “the aggregate of actions to be performed by the relevant persons and customs authorities, as well as by the automated system of customs clearance, with a view to complying with the requirements of the legislation of Ukraine on customs matters” [21].

The point of intersection that matters for the present subject lies in classification. Goods produced from hemp for industrial purposes, and the products of its processing, “do not belong to narcotic drugs, psychotropic substances or precursors” where their tetrahydrocannabinol content stays within the limits the law sets for such hemp [16]. The customs status of the goods is thereby made dependent on a laboratory indicator: One and the same commodity is either an ordinary agricultural product or a controlled narcotic-containing one. Because that indicator is set at one figure in the law and at another in the schedules, the uncertainty of the substantive rule passes straight into tariff classification and leaves the exporter of lawful hemp products exposed.

Tellingly, the most recent revision of the anti-drug law arrived through a customs statute: The wording now in force stems from the amendments to the customs code of Ukraine addressed to administrative liability for breaches of customs rules, to individual customs formalities and to the removal of terminological inconsistencies [22]. The legislature therefore came to this law from the customs side, and came for the sake of terminological order-leaving

the substantive discord over the tetrahydrocannabinol figure untouched.

Business entities and the fate of the harvest

The circle of subjects admitted to lawful cultivation is narrowed by the law itself. Activity involving the cultivation and use of plants of schedule number 3 for industrial purposes, save for the sowing, growing and processing of industrial hemp, and activity involving the cultivation of plants of schedule number 4, are carried out by legal entities irrespective of the form of ownership, provided that they hold the corresponding licence [16]. Individual entrepreneurs and farming enterprises without the status of a legal entity—a substantial part of Ukrainian agricultural production—are therefore excluded by the norm itself, and not by any factual circumstance. If one follows Hutarevych, who defines the economic and legal form of investment activity as the means of its realisation within stable economic constructions [23], the question arises in what legal form investment in this segment is possible at all when the form of the subject is rigidly predetermined by law.

The fate of the harvest raises a separate problem. Where the content of tetrahydrocannabinol in grown industrial hemp exceeds the level established by the law, the entire harvest is subject to destruction in the prescribed manner, and its storage pending destruction within the period established for narcotic drugs is not regarded as illicit turnover [16]. Exceeding the threshold, however, frequently does not depend on the will of the producer: It is influenced by soil, weather and plant stress, while the variety of the seed is subject to a separate requirement. The law contains no compensatory mechanism. It is essential to distinguish this measure from administrative liability: The confiscation of unlawfully grown narcotic-containing plants is an additional administrative sanction under the code of Ukraine on administrative offences [24], whereas destruction under the law is applied outside any delictual procedure, irrespective of fault and without reimbursement. In substance it constitutes a deprivation of property in respect of lawfully grown agricultural output.

The contractual envelope of coercion deserves attention as well. The protection of the places where the licensed activity is carried out is effected by units of the protective

police of the national police on a contractual basis [16]. A mandatory element of the regime is thereby realised through a contract concluded by the producer and at the producer's expense.

Finally, the transparency exacted as a condition of lawful activity exceeds what the law itself declared. The law states that the register of legal entities engaged in the sowing, growing and processing of industrial hemp "is formed on a declarative principle", obliges those entities to submit the information themselves, and grants the national police access in real time [16]. The procedure approved by the ministry of agrarian policy and food nowhere mentions that principle; it has the data loaded automatically through interaction with the state registers of legal entities, of real rights to immovable property and of land, down to the cadastral number, boundaries, designated purpose and term of the real right to every plot [25]. The implemented model is therefore stricter than the declarative one the legislature chose: Full visibility of land use before a law-enforcement authority becomes the price of lawful activity. The point concerns the divergence between the declared and the implemented model, not the lawfulness of the departmental act, which the law does authorise.

The incentivising instruments and their absence

In the theory of administrative and legal regulation of investment activity it is customary to distinguish the forms of state regulation, understood by Palamarchuk as the legally ordered activity of specific subjects of regulation in performing the actions necessary for the successful realisation of the regulatory functions attributed to them, and to delimit direct from indirect intervention in investment activity [26]. Investment activity itself is defined by the legislation of Ukraine as the aggregate of practical actions of citizens, legal entities and the state in realising investments with a view to obtaining profit [27], a definition which the doctrine treats in both a broad and a narrow sense [27].

This distinction is directly applicable to the subject under consideration. The regime of cultivation examined above is an exemplary instrument of direct intervention: It determines who may cultivate, on what area, with what seed, under what surveillance and within what quota. Indirect intervention-support, preferences, facilitation, access to credit and land resources-is what, in the European

model, counterbalances the restrictive component. In the Ukrainian construction this counterbalance is absent, and that absence can be demonstrated textually.

The basic act of agrarian policy, the law of Ukraine "on the principles of state agrarian policy and state policy of rural development" [28], whose very title was recast in October 2025, contains no mention of hemp, of oil crops in the relevant sense, of technical crops or of niche crops, although it operates extensively with the notions of state support and investment. The instruments of support therefore exist, but they are not addressed to the crops in question. Within the anti-drug law there is a single provision of an incentivising character: State policy is directed, among other things, at "creating proper conditions for carrying out economic activity" connected with the cultivation of plants of schedule number 4 of Table 1, for their use for educational, scientific and scientific-technical purposes and for the production of narcotic drugs, psychotropic substances and medicinal products [16]. That provision exists, but it covers only *Cannabis* for medical purposes is formulated as a direction of policy, and comes with no implementing mechanism, and schedule number 3, where the oil poppy and industrial hemp sit, has nothing of the kind at all.

The explanation is suggested by the title of the reforming act itself, which concerns state regulation of the turnover of plants of the genus *Cannabis* for use in educational, scientific and scientific-technical activity and for the production of narcotic drugs, psychotropic substances and medicinal products with a view to expanding patients' access to the necessary treatment [15]. Hemp for industrial purposes is not mentioned in that title at all. The industrial, and hence the food, component received its regulation incidentally-by being withdrawn from the scope of the law and excluded from the notion of cultivation-without any positive regime of economic activity being constructed in its place.

The institutional consequence is a vacuum. Measured against the scenarios substantiated earlier-improving self-regulatory organisations or replacing them with a regulatory agency of special status, the latter being the fitter for the market of pharmaceuticals and soft drugs [10]-the solution adopted for industrial hemp answers to neither: A register exists without a regulator. Meanwhile the regime is worked by no fewer than four authorities-the agrarian one keeping the register, the licensing body, the national

police and the health authority setting the requirements of good cultivation practice-which puts the questions of coordination and of their personnel capacity [11].

The comparative material confirms that the counterbalance is not a theoretical construct. Regulation European Union (EU) 2021/2115 provides that “areas used for the production of hemp shall be eligible hectares only if the varieties used have a tetrahydrocannabinol content not exceeding 0.3%”, while its preamble adds that the granting of payments may be made conditional “upon the use of certified seeds of certain hemp varieties” [29]. The two legal facts that in Ukraine merely remove the threat of liability thus open access, in the European Union (EU), to direct payments under the common agricultural policy; the regulatory landscape of industrial hemp in Europe has been examined separately [30].

The economic rationale of such a counterbalance is documented in the literature. Illicit drug crop economies frequently offer rural households more reliable means of securing a livelihood than licit commercial agriculture [31], which is why policies confined to eradication tend to fail; studies of substitution in areas affected by armed conflict show that the sustainability of the result depends on working with the producers themselves [32]. For a state that has not chosen complete prohibition, the inference is that the size of the illicit segment is governed by the viability of the lawful alternative rather than by the severity of the prohibition.

The delictual dimension and the authors’ construction

The legislation on administrative liability has not been brought into accord with the reform of 2023. Article 106-1 of the code of Ukraine on administrative offences establishes liability for failure to take measures to ensure the prescribed regime of protection of the sowings of sleep-inducing poppy or hemp, of the places of storage and processing of the harvest of these crops, and likewise for failure to take measures to destroy post-harvest residues or waste of production containing narcotic substances, and separately for failure by land users or landowners to take measures to destroy wild-growing hemp or sleep-inducing poppy on the plots attached to them; Article 106-

2 establishes liability for the unlawful sowing or unlawful growing of sleep-inducing poppy in a quantity of up to one hundred plants or of hemp in a quantity of up to ten plants, with confiscation of the unlawfully grown narcotic-containing plants [24].

Both provisions operate with the generic notion of hemp and do not distinguish industrial from medical hemp, a distinction introduced only in 2023. Three consequences follow. Article 106-1 penalises the failure to observe the prescribed regime of protection of hemp sowings, whereas the law expressly excludes industrial hemp from protection by units of the protective police [16], so that the code requires compliance with a regime which the special law does not establish for those sowings. Article 106-2 says nothing about sowing left unrecorded in the register, and its numerical ceiling of ten hemp plants cannot be applied in any meaningful way to industrial fields counted in hectares. Finally, the legal nature of the measures requires delimitation: Confiscation under Article 106-2 is an additional administrative sanction imposed within a delictual procedure, whereas the destruction of the entire harvest under the law is applied outside such a procedure and irrespective of fault.

Taken together, the findings permit the formulation of a construction which the authors designate as “restriction plus compensatory incentive”. Its content is as follows: Where the state has not chosen the complete prohibition of cultivation that Article 22 of the 1961 convention leaves to its discretion [17], and has instead admitted such cultivation as a form of economic activity, the lawfulness of each administrative restriction imposed within that regime should be assessed not only by the legitimacy of the aim and the proportionality of the measure, but also by whether the legal order attaches to the very same legal fact that gives rise to the restriction a corresponding compensatory instrument-access to support, a preference, a simplification or a guarantee. The model of the eligible hectare is an embodiment of this principle: The laboratory indicator that triggers control simultaneously opens access to payments [29]. The Ukrainian construction does not contain such a counterpart, which is demonstrated by the comparison set out in Table 1.

Table 1: The same legal fact and its consequences in the Ukrainian and the European models.

Legal fact	Consequence under the legislation of Ukraine	Consequence under Regulation European Union (EU) 2021/2115
Tetrahydrocannabinol content of the varieties used not exceeding 0.3 per cent	A condition for the plant to be classified as hemp for industrial purposes and thus for admission to sowing and growing	A condition for the area used for the production of hemp to qualify as an eligible hectare
Use of certified seed of listed varieties	A licensing condition; for plants of schedule number 4, seed not lower than the second generation is required	A condition upon which the granting of payments may be made conditional
The area used for the production of hemp	Fixed in the licence and in the licensing register together with the geographical coordinates, as a limit of the permitted activity	Counted as an eligible hectare, that is, as the basis for calculating direct payments
Compliance with the content requirement	Removes the threat of administrative liability and the destruction of the harvest	Opens access to income support under the common agricultural policy

The analysis of the table shows that the asymmetry is not confined to a single institution but reproduces itself consistently across the whole regime: Each legal fact that gives rise to a duty has a counterpart in the European model and none in the Ukrainian one. This is why the problem cannot be solved by softening individual requirements. What is required is the introduction of the missing component, and the following directions may be proposed.

First, the conflict concerning the threshold of tetrahydrocannabinol should be eliminated by bringing the note to schedule number 3 of the schedules into conformity with the law, without waiting 16 February 2027, since until then the subordinate act is stricter than the law. Second, Article 4 of the law should be supplemented, symmetrically to its existing provision concerning schedule number 4, with a direction of state policy towards creating proper conditions for economic activity connected with the cultivation of plants of schedule number 3. Third, hemp for industrial purposes and the oil poppy should be included among the objects of the instruments of state support under the law on the principles of state agrarian policy, following the model of the eligible hectare, so that compliance with the content requirement and the use of certified seed open access to support rather than merely removing the threat of liability. Fourth, the law to which the law refers in respect of the principles of activity involving industrial hemp should be adopted, or those principles should be regulated directly in the law itself, since at present the register has been established by a departmental act while the principles of the activity have not been established at all. Fifth, individual entrepreneurs and farming enterprises without the status of a legal entity should be admitted to cultivation. Sixth, a compensatory mechanism should be established for cases

of destruction of the harvest where the producer is not at fault. Seventh, Articles 106-1 and 106-2 of the code of Ukraine on administrative offences should be synchronised with the division of *Cannabis* into industrial and medical.

Conclusion

The examination undertaken shows that the administrative and legal regime for cultivating narcotic-containing plants in Ukraine performs a function broader than the one usually ascribed to it. Alongside its protective task, it determines the conditions under which the food potential of several agricultural crops-the oil poppy and hemp for industrial purposes-may or may not be realised, and in this sense it is an element of the mechanism of ensuring food security. The present state of that regime, however, prevents it from performing this second function.

The restrictive component is elaborated in detail and at the level of a law-from licensing and the admission of legal entities alone to governmental quotas, surveillance, laboratory control and the destruction of a harvest that exceeds the threshold. The incentivising component is confined to a single provision on the directions of state policy, which covers only *Cannabis* for medical purposes and is supported by no mechanism, while the basic act of agrarian policy does not mention these crops at all.

This asymmetry is aggravated by three defects of the normative construction. The object in whose favour the restrictions could be justified-food security-is fixed only by an act of the government, the corresponding law having been rejected in 2012, which leaves the restriction standing on a higher rung of legal force than the purpose it serves. The figure for tetrahydrocannabinol differs between the law and the schedules, and that discrepancy

travels onward into the laboratory assessment of the crop and into the tariff classification of the goods. The model of registration actually implemented by the departmental act is stricter than the declarative one prescribed by the law, and the transparency so attained is not matched by any compensatory benefit.

The comparison with regulation European Union (EU) 2021/2115 indicates the direction of the remedy. The same legal facts—a tetrahydrocannabinol content not exceeding 0.3 per cent and the use of certified seed—operate in the European Union (EU) as conditions of access to direct payments, whereas in Ukraine they merely remove the threat of liability. Ukraine has borrowed the restrictive side of the construction without its incentivising counterpart.

Accordingly, the authors propose to assess the lawfulness of administrative restrictions on economic activity in this sphere by reference to the criterion of a compensatory counterpart: A restriction is justified where the legal order attaches to the legal fact that gives rise to it an instrument that opens access to support, a preference or a guarantee. Applied to the subject examined here, this criterion yields the specific directions for amending the legislation of Ukraine set out above, from the elimination of the threshold conflict and the admission of individual entrepreneurs to cultivation, to the establishment of a compensatory mechanism for the destruction of a harvest in the absence of fault and the synchronisation of the provisions on administrative liability with the division of *Cannabis* introduced in 2023.

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Conflict of Interest

Authors have no conflict of interest to declare.

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