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Russia

Legal coverage for food security of Russia: national and international legal aspects

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Legal coverage for food security of Russia: national and international legal aspects

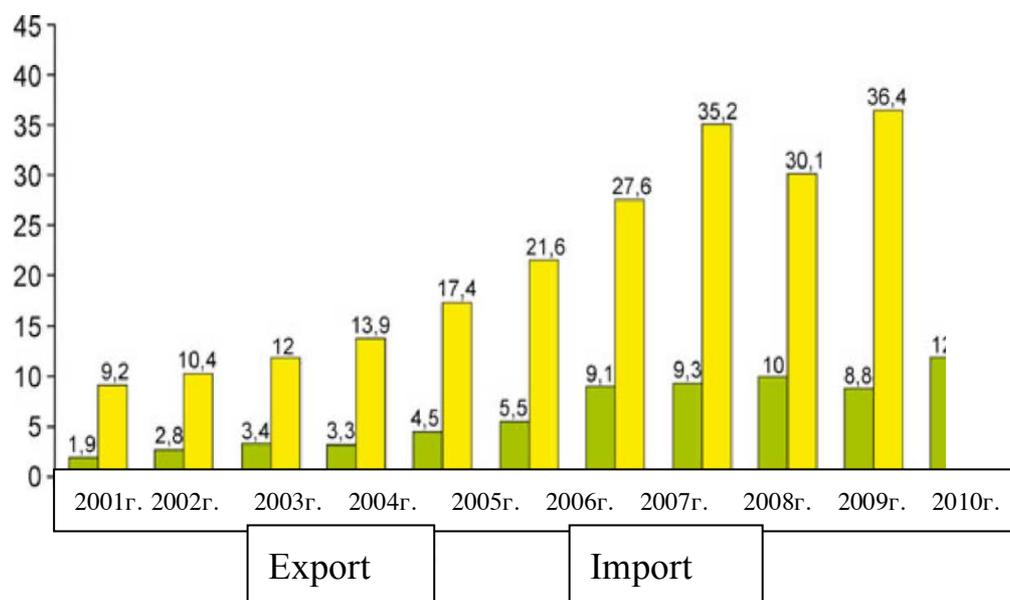
Despite the actions undertaken by legislative and executive organs of state power and management, *the situation in ensuring the food, genetic and ecological security of Russia* becomes more and more *alarming*. Since 2000, the value of imported food annually increases by 30% and in 2011 the scope of imported food and agricultural raw stuff for its production amounted \$42.5 billion versus \$35.2 billion in 2008 and \$36.4 billion in 2010¹.

The agrarian import is comparable in value with export of Russian gas to the Western Europe²². However, the country, having significant dependency on food import, cannot be practically, economically and politically independent to a full extent, and in case of appearing international conflicts such dependency becomes threatening for national security of the Russian state.

1 National report "On the course and results of implementing in 2011 of the State program for development of agriculture and regulation of markets in agricultural produces, raw stuff and food for 2008-2012", 2012.p.104.

2 World experience of ensuring food security and its using in Russia. Theme of dissertation and author's abstract in VAK 08.00.14. Candidate of Economy. Plugov Aleksey Gennadievich. M. 2011. p.10.

Export and import of food products and *agricultural raw stuff* for their production in the Russian Federation, billion US dollars



The attempts of solving the problems, connected with ensuring the food security, have been undertaken by the RF President's Decree of January 30, 2010 "On approving the *Doctrine of food security in the Russian Federation*"³, regional laws in several subjects of the Russian Federation, including Moscow law of July 12, 2006 "On food security of Moscow city"⁴. These standard legal acts define basic terms, which are used in application to the theme of scientific report. Among these are food independence of the Russian Federation; physical accessibility to food products; economical accessibility to food products; conformity of food products with requirements of legislation on technical regulation; rational norms of food products consumption; state control over observing the legislation on production and realization of qualitative, ecologically clean agricultural products.

The term 'food security' has been introduced into scientific turnover in the first half of 70th years of the XX century and borrowed from standard documents of international organizations, created for solving the food problems. *The international-legal regulation of food security* is based on the norms of General declaration on abolition of hunger and undernourishment, approved by resolution 3348 (XXIX) of UN General Assembly on December 17, 1974, Rome Declaration of the World Summit on food security, which took place on November 16-18, 2009, as well as other documents, including those prepared by the UN Food and agricultural organization (FAO)⁵.

The General declaration on abolition of hunger and undernourishment declares that every man, woman or child possesses indefeasible right to be free from hunger and undernourishment for full development and preservation of their physical and mental abilities, and the removal of obstacles on the way of food production⁶ is the duty of every interested state in accordance with its sovereign understanding and internal legislation.

The Declaration of the World Summit on food security has defined that the food security exists, when all the people always possess physical, social and economical accessibility to sufficient amount of safe and nutrient food for satisfaction of their diet requirements and food preferences for having an active and healthy life. Herewith are put forward the four bases of food security: availability, access, usage and stability. The integral part of food security conception is the aspect, concerning the nutrition⁷.

The state possesses the right of not solely carry on the state regulation of economy, but it is obliged to do so. The fairness of above said is confirmed by the Charter of economical rights and duties of the state, adopted on December 12, 1974 at the Plenary meeting of the XXIX session of UN

3 SZ RF. 2010. № 5. art. 502.

4 Vestnik of Mayor and Moscow Government. 2006.№43.

5 See: Internet site of UN Organization: www.un.org

6 See: Internet site of UN Organization: www.un.org.

7 See: Internet site of the World food organization: www.fao.org

General Assembly. According to article 7 of the Charter, “every state bears the main responsibility for assisting the economic, social and cultural development of its people”.

Having such aim, every state possesses the right and bears the responsibility for choosing the means and goals of development, for complete mobilization and usage of its resources, accomplishment of progressive economic and social reforms, for ensuring full participation of its people in the process and profits of economic development.

All states are obliged to cooperate individually and jointly, as well as to remove obstacles that hinder such mobilization and usage”⁸.

The world society does not fulfill obligations placed on it for extermination of hunger and undernourishment on the planet. At the moment of adopting the Rome Declaration on the World food security (1996), the number of hungry people comprised about 825 million. By 2009 it increased almost by 24% up to 1020 million. Despite all efforts of the international society for solving the problems of global food security, the situation of food providing in the world is getting worse⁹.

*The food security is recognized as one of the main lines of the Strategy for national security of the Russian Federation up to the year 2020, approved by the RF President’s decree of March 12, 2009*¹⁰. The essential contribution to solving the problems of legal coverage of food security in Russia might be introduced by using *the world experience of ensuring the food security*. Herewith will be necessary to account for generally accepted classification of basic approaches to ensuring the food security depending on the level of agrarian potential in export oriented countries (USA, Canada, Australia, New Zealand), protectionism (Japan and Norway) and intermediate policy (major EU countries).

Key factors of ensuring the food security in developed countries are the priority or support of agricultural commodity producer and guaranteed maximum self-sufficiency of consumer with all kinds of food or equal support both for agricultural commodity producers and consumers of agricultural produces. Both variants of supporting consumers and agricultural commodity producers can be used in Russia.

To a certain extent for resolving such problems, there might be employed the legal experience of using in Kazakhstan and Belarus the State program for import replacement, approved by decision of the Government of Kazakhstan Republic of August 20, 2001 № 1088 and the State program for import replacement of Belarus Republic in 2001-2005 and 2006-2010. The priority of

8 Operating international law V3, M.1997, p. 135.

9 World experience of ensuring food security and its using in Russia. Theme of dissertation and author’s abstract in VAK 08.00.14. Candidate of Economy. Plugov Aleksey Gennadievich. M. 2011. p.15.

10 SZ RF. 2009.№20.art.2444.

those programs is the import replacement as a condition, required for raising the food and genetic security of Kazakhstan and Belarus.

While resolving the legal problems of food and genetic security in Russia, one should take into account that aggressive foreign biotechnological corporations, trying to establish their monopoly at the Russian market of seeds and food, use their superiority in scientific designs and political influence. In view of that appears the acute question, whether it is possible to keep the policy of liberal self-regulation or it is necessary to fix legally the import replacement as a basic line of food security in Russia and raising the competitiveness of agroindustrial production.

The legal doctrine puts forward five functions of state regulation, primarily connected with realizing the right of Russian citizens of full value nutrition. The first important function of state regulation implies the creation of stable food provision in the country on the basis of forming federal and regional food foundations with sufficient reserves for state needs, stabilizing food foundations for preserving healthy environment and raising the life quality of Russian citizens.

The right of Russian citizens for full value nutrition is fixed by point 1 of the article 25 in the General Declaration of human rights, approved and proclaimed by the UN General Assembly on December 10, 1948. "Anyone possesses the right of such level of life, including food, clothes, housing, medical care and needed social services, which is required for supporting the health and welfare for him and his family..." The application in Russia of standards, fixed by point 1 of the article 25 in the General Declaration of human rights, on the right of the man and citizen for full value nutrition is provided by standards of various branchial belonging.

The essential role in realizing that right belongs primarily to statements in the part 1 of the article 7 in the Constitution of the RF, which considers the principle of social state as one of bases of constitutional system, in such way reflecting the new increased role of the state in material providing the poorest strata of the population with basic nutrition products at the level of standards in modern developed society.

There exists a mistaken opinion that the right for full value nutrition is not individual right, because it is not considered in programs of governments in economic and social fields. Meanwhile the article 11 of the Declaration reads that the right for full value nutrition is the right of every man and citizen. The right for nutrition in given standard is interpreted not as wide collective action, but as human right of every man and citizen. Besides from the opinion about the right for nutrition as a part of concrete program follows no conclusion that for realizing other rights of man and citizen it is not required to adopt government programs. In reality, any government must have special programs for protecting any human right. That concerns the control of any social harm: either hunger, violence, terror or kidnapping of people.

There also exists a delusion that economic rights of men differ in their legal nature from civil and political rights. In view of that the civil and political rights of men are called negative, because they are not depending on functioning of the state and therefore free of charge. What concerns the economic, social and cultural rights, these are called positive. It is supposed that their realization requires respective state activity and therefore these must be paid.

At present that delusion about the significance of socioeconomic rights for providing the legal status of a personality has been surmounted. In the International pact on economic, social and cultural rights, the special attention is attached to the fact that the ideal of free human personality, free from fear and poverty, might be realized, if there will be created such conditions, at which everybody could use his economic, social and cultural rights in the same way as his civil and political rights.

That point of view has been confirmed by the UN General Assembly (resolution of December 4, 1986), proclaiming the 'indivisibility and mutual dependency of economic, social, cultural, civil and political rights.

From constitutional recognizing Russia as a social state, which policy is directed for creation of conditions ensuring worthy human life, from statements of the point 'e' in the article 71 of the RF Constitution, which refers to performing by the RF basic federal and food policy included and federal programs in the field of social development, follows that the state must fulfill two kinds of obligations to the society.

The first obligation of the state in the sphere of protecting the rights of citizens for full value nutrition consists in adopting measures for elimination of food dependency of the country on foreign countries and reducing the food import, which remains the channel for capital leakage abroad due to manipulations with control prices, fictitious advance money transfers, payment of retail services, what undermines the economic system of the state.

The vocation of the state consists in establishing the social system, creating just policy of food provision, promoting the solution of the two tasks. That requires uninterrupted delivery of food products to food markets at the scope, sufficient for satisfying the needs of the population, including the persons with fixed state incomes, pensioners and children, which depend on state social provision.

Secondly, the state promotes the rise in the level of daily dietary calories for nutrition of the population in accordance with physiological norms at existing structure of consumption, price system, income level, social reliefs and privileges. Gradually formed is the system of food aid to persons, having insufficient income for food purchase.

Enacted on January 1, 2013 is the Federal law of December 3, 2012 № 227-ФЗ “On consumer goods basket entirely across the Russian Federation”¹¹. The consumer goods basket, proposed by Ministry of labor, corresponds in greater extent to actual consumption of low-income population: 50% of income for nutrition and 25% for each nonfood commodities and services.

Such changes in methods of defining the consumer goods basket are explained by the fact that “presently operating procedure of defining the subsistence level on the basis of the set of food products, nonfood commodities and services, established in natural indices, became obsolete and did not repay itself, because the structure of the consumer goods basket had essentially deviated from actual consumption of typical low-income household”¹².

New methods of defining the consumer goods basket are oriented solely to nutrition and does not account for needs of population in nonfood commodities and services. These are aimed at poorest strata of the population, backward life style, while the consumption structure changes towards increasing the share of nonfood commodities, payment of services and decreasing the share of food products.

The composition of consumer goods basket in Russia is rather poor (40kg meat can be purchased annually, a skirt – once in five years, for cultural entertainment can be spent 45 rubles per month, in terms of money for the second quarter of 2008 that amounts 4446 rubles on the average per man in a month¹³. The state of affairs is neither reasonable in the field of food product consumption. Thus, per capita consumption of milk and dairy products, meat and meat products in 2010 as compared with 1990 comprised only 71.8% and 90.3% respectively¹⁴.

In the happiest countries (for example, in Sweden), the value of the consumer goods basket comprises US\$ 1000 per month and more. In Greece, Portugal and several other countries of that development level – about US\$ 500-700. Therewith one should account for different prices of commodities and services in Russia and several other countries, as well as different traditional needs of the population.

Besides one should account for essential difference of the consumer goods baskets between rich and poor regions of the country. The average pension also

11 SZ RF 2012 №50 (part 1Y), art.5950

12 Smolyakova T. Not solely bread alone. / Rossiskaya gazeta of July 5, 2012

13 Rossiskaya gazeta of November 25, 2008

14 Adukov R. Kh. Conceptual ideas for development of state management of the AIC in Russia. Collected works of the All-Russian scientific-practical conference “Management system – as a basis for implementing the model of innovative development of the agroindustrial complex in Russia” M. 2013

does not reach the legal subsistence level. The Government of the RF until now cannot hold the promise to reach that level by 2009¹⁵.

The unemployment benefits are lower than the actual subsistence level (according to RF Government decision since January 1, 2009 independent of previous wages the maximum benefit must be 4900 rubles per month for working and 850 rubles for not working¹⁶.

As a result, approximately one sixth part of the population lives by official data behind the line of poverty, and about 40% unofficially. At the same time in 2008 Russia occupied the second place (after USA) in the number of dollar billionaires. Every year (at least up to 2010) their number increased faster, than in developed countries, and up to 2010 they annually doubled their fortune¹⁷.

The consumption of nonfood commodities and services forms the general background not only in welfare of residents, but spiritual-moral nature of their life. The world practice (MOT) quite lawfully recognizes that the level and quality of life determine the structure of consumption, in which predominate the expenses for nonfood commodities and services. Russia needs the consumer goods basket, which will be oriented not at low-income population, but the middle class. Raising the level of life for the population is possible only in that case¹⁸.

The forth, the state must oppose the activity of powerful food companies, which create artificial food deficit, violate agreement commitments and force up food prices. In view of that, the alarming signal is the all-round increase of prices for basic food products (flour, bread, meat and milk) in August of 2010, which is not only the sequence of negative effect from draught and mass poor harvest, but speculations of many participants of trade market. The main fault for price growth at food market, in experts' opinion, lies not on agricultural commodity producers, but trading networks. While the realtors' surcharge comprises 8-12% in EU countries, it sometimes reaches 30% to 300% in Russia¹⁹.

In view of that, well-grounded proposals are put forward to introduce alterations into the Federal law of December 28, 2009 "On principles of state regulation of trade activity in the Russian Federation"²⁰ and establish in the law

15 Rossiskaya gazeta of November 14, 2008.

16 Rossiskaya gazeta of December 28, 2008.

17 Khabrieva T.Ya. Russian constitutional model of the social state. In book Constitution, law and social sphere of the society. Proceedings of scientific-practical conference. (Moscow, December 1, 2008) M. 2009. P. 23.

18 Dodonova I.V. Level and life quality of rural residents in Russia: criteria of evaluating and ways of rising. // Economy, labor and management in agriculture № 1 (14). March. 2013. P.82.

19 Yelena Kukol. Control purchase by Nabiulina. Ministry of economy and development intends to follow the state contracts from planning phase to complete fulfillment. Rossiskaya gazeta. August 20, 2010.

20 Rossiskaya gazeta. December 30, 2009.

the lower limit of purchase prices for goods of agricultural commodity producers and maximum trade surcharge for the entire chain of suppliers from field to shelf. Also discussed in the mass media are the proposals to introduce food coupons for low-income citizens of Russia according to US experience.

The essential contribution into resolving the problems of legal coverage of the food security in Russia might introduce the usage of the world experience for ensuring the food security. Herewith will be necessary to account for generally accepted classification of basic approaches to ensuring the food security depending on the level of agrarian potential in export oriented countries (USA, Canada, Australia, New Zealand), protectionism (Japan and Norway) and intermediate policy (major EU countries).

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While resolving the legal problems of food and genetic security in Russia, one should take into account that aggressive foreign biotechnological corporations, trying to establish their monopoly at the Russian market of seeds and food, use their superiority in scientific designs and political influence. In view of that appears the acute question, whether it is possible to keep the policy of liberal self-regulation or it is necessary to fix legally the import replacement as a basic line of food security in Russia and raising the competitiveness of agroindustrial production.

The second function of state regulation of agriculture is connected with creating market production infrastructure in the countryside. The matter concerns the formation and operation of federal and regional food markets. In the State program for development of agriculture and regulation of markets in agricultural produces, raw stuffs and food for 2013-2020, approved by decision of RF Government of July 14, 2012 № 717, (further the State program)²¹, There are particularly put forward the special rules for regulating the market in grain, meat and sugar. The tools of surveying the price index in agricultural produces, raw stuffs and price index (tariffs) in industrial produces (services), used by

21 SZ RF 2012 №32, art. 4549

agricultural commodity producers are employed for that purpose, maintaining the parity of such price indexes (tariffs) and fixing a set of measures, directed to raising the competitiveness of Russian agricultural produces and Russian agricultural commodity producers and ensuring the quality of Russian food products.

The third function of state regulation of agriculture consists in the formation of efficiently operating market in agricultural produces, raw stuffs and food, for which purpose the state conducts purchasing interventions in the form of procurement and collateral operations with agricultural produces and food. The agrarian legislation also envisages trading interventions in the form of their sale from federal and regional food foundations.

The legalization of state purchasing interventions gained the reflection in the Federal law, article 14 of December 29, 2006 “On development of agriculture”²², which creates the legal basis for implementing the state purchasing interventions, when ^{the} prices in agricultural produces decrease below the level, established for conduct of purchasing interventions. Not less important is the regulation on rules for implementing the state purchasing interventions, which are conducted in case of shortage at the market in agricultural produces and growth of market prices beyond maximum settlement prices.

On September 28, 2004, the RF Government has approved the Rules of implementing the state purchasing and trading interventions for regulating the market in agricultural produces, raw stuffs and food. In the considered standard legal act, much room is given to functions of RF Ministry of agriculture, which responsibility is placed on organizing the state purchasing and trading interventions and regulating the level of prices, when they reach the level for conduct of the state purchasing and trading interventions.

The forth function of state regulation of agriculture is connected with orientation of the legislation to raising the life quality of rural residents, increasing the income growth for persons, employed in agriculture, creating material basis for sustainable development of rural areas and worthy life conditions of rural residents.

The social rights of rural residents remain practically unprotected until present. The prestige and profitability of agricultural labor decrease. Almost half of rural residents live behind the line of poverty. All-round impoverishment is observed in rural population. The poverty displays mainly in districts with so called depressive nature of economy, which are located far from regional centers and under unfavorable economic conditions.

²² SZ RF 2007 №1 (part 1), art. 27

For the period of reforms the duration of life in the countryside has reduced and comprises 73.4 years for women and only 60.9 for men. It's clear that statistically average country man hardly reaches the pension age²³.

Causing alarm is the increase of mortality in the countryside, as well as depopulation in 64 regions of the country, the degradation of quality potential of labor force and the decline of its general education and qualification level.

“The majority of rural administrative districts is characterized by low density of population (up to 5 men per one square km) and the lowest density (up to one man per one square km), what increases geopolitical risks”²⁴.

The Priority national project “The Development of the AIC”, Federal target program “Social development of the countryside until 2012”, approved by RF Government decision № 858 of December 3, 2002²⁵ with account of its prolongation until 2013, and further – the Federal target program for sustainable development of rural areas for 2014-2017, (with account of its prolongation until 2020), as foreseen by the Conception for developing rural areas of the Russian Federation until 2020, approved by RF Government order № 2136-p of November 30, 2010; the Federal law № 264-ФЗ of December 29, 2006 (with alterations of July 24, 2009) “On development of agriculture” recognize the necessity of ensuring the sustainable development of rural areas, including the construction and maintenance in appropriate way the automobile roads, connecting the inhabited areas.

One of basic functions of the state consists in creating the conditions for sustainable development of rural areas; expansion of labor market in rural area, raising the level of life for rural residents, including the labor payment for workers, employed in agriculture. Social functions of the state are connected with creating the conditions for raising the comfort living in rural area and providing the access, equal to city-dwellers, to comfortable housing, health care, education, trade and household servicing. The most important line for sustainable development of rural areas is the improvement of demographic situation and raising the labor provision in depressive regions. The Draft Conception for socioeconomic development of the agroindustrial complex of the Russian Federation suggests solving those problems within the framework of federal and regional target programs, which must determine some measures,

²³ Adukov R. Kh. Conceptual ideas for development of state management of the AIC in Russia. Collected works of the All-Russian scientific-practical conference “Management system – as a basis for implementing the model of innovative development of the agroindustrial complex in Russia” M. 2013.

²⁴ Petrikov A.V. The state program for development of agriculture. In book Legal mechanism for state regulating the support of agroindustrial complex. Edited by Bogolyubov S.A. – M.: Norma. 2009. P. 81.

²⁵ SZ RF 2002 №49, art. 4887; 2006. 3 16. Art , 1734 C3 PΦ. 2002. № 49. СТ. 4887; 2006. 3 16. СТ. 1734.

directed for movement and attraction of working personnel, specialists from towns and other subjects of the Russian Federation, CIS countries for agricultural activity and work in the sphere of social services (education, health care, etc).

“The expenses of enterprises and AIC organizations for arrangement of families, moving to such regions might be covered by means of federal budget in dimensions, determined by the Government of the Russian Federation and foreseen in federal budget”²⁶.

The fifth function of state regulation of agriculture is fulfilled by means of solving particular tasks in the field of protecting the environment and nature using. That has found the reflection in the Federal Law of January 10, 2002 “On protecting the environment”, which puts forward the special chapter УП “Requirements in the field of protecting the environment while conducting economic and other activities”. The law defines those requirements as a measure of ecologically admissible behavior of the entrepreneur. The law stiffens the requirements of economic activity and recognizes as insufficient, like before, the distribution of permissions and licenses for nature usage. The article 31 consolidates the requirement on ecological certification, registration of pollution sources, on reporting of enterprises and organizing the production control.

The law consolidates new increased requirements of agricultural activity, which appears as permanent and strong pollution source, especially for soils and water. The new law contains a new requirement: The objects of agricultural purpose must have necessary sanitation-protective zones and cleaning structures, which must exclude the pollution of soil, water and air (article 43). It means that while granting the land for agricultural purposes, some portion of land must be allotted for protective zones or some additional plots must be granted for sanitation-protective zones.

The ecological function of the state has found its consolidation in the Federal law “On development of agriculture”, which proclaims as one of basic goals in the state agrarian policy the preservation and reproduction of lands, used for needs of agriculture and their soil fertility, as well as water resources and objects of the vegetative and animal world.

Strengthening the public-legal regulation of nature usage and protection of environment in agriculture found its reflection in research of International commission “On issues of future developing the production of food stuffs” and in projects on implementing the sustainable agriculture in 52 countries of the world. Those world economic trends in development of ecological agriculture and production of food stuffs, proclaimed in FAO Report of May 6, 2007 “The organic agriculture” are mutually connected with problems of legal regulating

²⁶ Draft Conception for socioeconomic development of the agroindustrial complex of the Russian Federation for the period up to 2020. Scientific basis. M. 2011. P.29.

the gene-engineering activity. Sanitizing the human population and improving the condition of environment will be possible only with account for analysis of the world experience in development of agricultural production and ecologization of crop farming.

In September 2012, some attempts have been undertaken to solve the problems, connected with ensuring the food security of the country, in Draft Federal law “On manufacturing organic agricultural produces and introduce alterations into legislative acts of the Russian Federation”, which attracted the attention of legal literature earlier in 1999²⁷ and 2010²⁸.

That line of state regulation is one of priority lines in improving the agrarian legislation, directed to stable providing the population of the Russian Federation with ecologically friendly high-quality agricultural produces. That caused the necessity of strengthening the attention to problems of stimulating agricultural commodity producers in manufacturing organic agricultural produces; supporting the agricultural consumers’ cooperation, small and medium entrepreneurship, which provide services to agricultural commodity producers in manufacturing organic agricultural produces, informational-methodical coverage of agricultural commodity producers, who carry on the organic agricultural production.

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²⁷ Yarandaikin R.S. Organizational-legal problems of manufacturing and realizing ecologically friendly agricultural produces. Dissertation for aspiring the scientific degree of Doctor of legal sciences. M.1999.

²⁸ Vlasov V.A. Food security of the Russian Federation as a compulsory condition of her real independence. Krasnoyarsk. 2010