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SELECTED LEGAL INSTRUMENTS SHAPING CONTEMPORARY POLISH AGRICULTURE IN THE RURAL DEVELOPMENT PROGRAMME 2014–2020

Changes in European and Polish agriculture introduced in 2013 as a result of the reform of the Common Agricultural Policy significantly affected the functioning of farmers, especially in regard to the possibility of them obtaining funds to conduct their business. European agriculture is shaped by a system of grants and support mechanisms for individual countries and selected areas of activity for farmers. Financial flows for agriculture to a large extent determine the development of other aspects of agricultural policy in the European Union. In most Member States the national agricultural policy is being replaced by the European standards. This phenomenon is all the more interesting that in agricultural law it has started to be called agricultural codification¹. European regulations define not only the current state of legal possibilities addressed to farmers but also the future of agriculture.

One of the important components of the European system of agricultural law, in addition to the Single Area Payment Scheme (SAPS) or the agricultural market, is the rural development policy. Currently it is the only legislative mechanism enabling farmers to obtain appropriated aid for specific investment plans. In each financial perspective associated with the cyclical nature of the EU budget, expenditures on rural development represent a substantial part of it. Investments with a specific purpose can also be controlled and their effects properly measurable. This allows to assess in the long run the efficiency of the applied legal mechanisms and improve them. In this regard, we developed a series of evaluations of development programs, such as *ex ante*, *ex post* or mid-term.

According to data from the European Commission, the share of expenditures on agriculture in the European Union budget is being reduced. In the early 1980s

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¹ F. Albisini, *Europejskie kodeksy rolnictwa i ponowne odkrycie rolnictwa jako działalności produkcyjnej*, (in:) P. Litwiniuk (ed.), *Kwestia agrarna. Zagadnienia prawne i ekonomiczne*, Warsaw 2016, p. 352.

expenditures for the CAP accounted for 66% of the EU budget, whereas in the period 2014–2020 they are to account for just 37.8%². In the longer term this could mean a further significant fall in spending on agriculture and its development possibilities. Expenditures on the rural development policy represent 24.4% (EUR 100 billion) of the European Union budget allocated for the implementation of the Common Agricultural Policy (at 71% allocated for area payments and 4.3% for the agricultural market). In addition, Poland is the biggest beneficiary of this policy³ – 16% (EUR 13.6 billion) of the budget reserved for rural development has been earmarked for it⁴. The size of the funds can effectively affect not only the development but also the competitiveness of Polish agriculture. Currently, activities that are financed by them determine the future of Polish agriculture. They teeter between environmental protection and investments in new technologies and innovation. It should be noted that funds in such an amount can be granted to Member States for the last time due to the need to finance other activities in the European Union⁵. Therefore, at the outset it should be noted that efforts must be made to use the above funds.

The aim of the article is to present the legal instruments that affect contemporary Polish agriculture, and which have been defined in the Rural Development Programme for 2014–2020⁶. Not only are there certain economic expectations that go with the introduction of these instruments, but also the legal issues arising from the resulting legal mechanisms governing access to the aid granted. Below selected legal instruments of the Rural Development Programme are analysed, which may have a significant impact on the development of Polish agriculture. The selection of individual actions for the analysis was dictated not just by the size of funds earmarked for specific activities, but also due to the importance of regulations undertaken.

The legal instruments presented below should implement the priorities of the rural development policy such as the promotion of knowledge transfer⁷ and innovation in agriculture and forestry as well as in rural areas, and to support

² See http://www.europarl.europa.eu/aboutparliament/pl/displayFtu.html?ftuId=FTU_5.2.10.html (visited January 17, 2017).

³ F. Monsalve, J. E. Zafrilla, M. A. Cadarso, *Where have all the funds gone? Multiregional input-output analysis of the European Agricultural Fund for Rural Development*, “Ecological Economics” 2016, Vol. 129, pp. 62–71.

⁴ See http://www.europarl.europa.eu/aboutparliament/pl/displayFtu.html?ftuId=FTU_5.2.10.html (visited January 17, 2017).

⁵ R. Crescenzi, F. De Filippis, *Cohesion policy and rural development*, (in:) S. Piattoni, L. Polverari (eds.), *Handbook on Cohesion Policy in the EU 2016*, Cheltenham–Northampton 2016.

⁶ B. Wieliczko, *Czy warto stosować instrumenty finansowe w programach rozwoju obszarów wiejskich*, “Zeszyty Naukowe SGGW w Warszawie. Problemy Rolnictwa Światowego” 2016, Vol. 16(31), No. 1, pp. 245–254.

⁷ I. Kowalska, *Szanse i zagrożenia dla rozwoju kapitału ludzkiego na obszarach wiejskich w wieloletnich ramach finansowych 2014–2020 w Polsce w dziedzinie edukacji*, “Journal of Agribusiness and Rural Development” 2016, No. 1(39), pp. 103–111.

the profitability⁸ and competitiveness of all sectors of agriculture⁹ and promote innovative farming techniques and sustainable forest management¹⁰. They also included improving the organization of the food chain¹¹, animal welfare and risk management in agriculture¹², restoring, preserving and enhancing ecosystems¹³ dependent on agriculture and forestry, or promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in the agriculture, food and forestry sectors. The social priorities can take into account the promotion of social inclusion¹⁴, poverty reduction and economic development in rural areas¹⁵. These objectives are implemented through national rural development programmes, which determine the selection of appropriate support measures depending on the local needs.

The legal basis for the functioning of the rural development policy is Regulation No. 1305/2013 of the European Parliament and of the Council (EU) of December 17, 2013 on supporting rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation No. 1698/2005 of the Council (EC)¹⁶. It includes rules for creating and monitoring rural areas development programmes. It also specifies 32 measures that can be selected by the Member States, which will be financed under the Common Agricultural Policy. The basic principles related to each of the measures, specified in separate articles, form the legal framework in which a Member State creates a rural development programme through their refinement due to the diversity of local agriculture. Such a system allows the Member States to choose those legal mechanisms that

⁸ L. Granberg, K. Andersson, I. Kovách (eds.), *Evaluating the European Approach to Rural Development: Grass-roots Experiences of the LEADER Programme*, New York 2016.

⁹ W. M. Rivera, M. K. Qamar, H. K. Mwandemere, *Enhancing coordination among akis/rd actors: an analytical and comparative review of country studies on agricultural knowledge and information systems for rural development (AKIS/RD)*, Rome 2016.

¹⁰ R. Kisiel, J. Zielińska-Szczepkowska, A. Zielińska, *Rozwój obszarów wiejskich w kontekście zrównoważonej gospodarki leśnej na przykładzie Regionalnej Dyrekcji Lasów Państwowych (RDLP) Olsztyn*, "Ekonomia XXI Wieku" 2016, No. 1(9), p. 136–150.

¹¹ R. Conneely, M. Mahon, *Protected geographical indications: Institutional roles in food systems governance and rural development*, "Geoforum" 2015, No. 60, p. 14–21.

¹² D. J. Warner, D. J. Tzilivakis, A. Green, K.A. Lewis, *Rural Development Program measures on cultivated land in Europe to mitigate greenhouse gas emissions—regional "hotspots" and priority measures*, "Carbon Management" 2016, pp. 1–15.

¹³ B. Jack, *Ecosystem Services: European Agricultural Law and Rural Development*, (in:) M. Monteduro, P. Buongiorno, S. Di Benedetto, A. Isoni (eds.), *Law and Agroecology*, Berlin–Heidelberg 2015, pp. 127–150.

¹⁴ S. Neumeier, *Social innovation in rural development: identifying the key factors of success*, "The Geographical Journal" 2016, Vol. 182.

¹⁵ C. S. Russell, N. K. Nicholson (eds.), *Public choice and rural development*, New York 2016.

¹⁶ Regulation No. 1305/2013 of the European Parliament and of the Council (EU) of December 17, 2013 on supporting rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation No. 1698/2005 of the Council (EC) (OJ EU L of 2013, No. 347, item 487, as amended).

will help as fully as possible to achieve the objectives of Regulation 1305/2013 and enhance sustainable rural development¹⁷.

When developing the Rural Development Programme (RDP) for the years 2014–2020, the Polish legislator chose 19 of the 32 possible measures, guided by the needs of Polish agriculture and the possibilities of aid allocation. At the same time, at the outset it should be noted that the activities were diversified due to the level of expenditure associated with their functioning. The size of financial flows in this area will determine the shape of Polish agriculture due to the use of funds deriving from individual measures by Polish farmers¹⁸. Given that next to the single area payment scheme, the financing of the rural development policy is one of the main factors leading to increase competitiveness and profitability of Polish agriculture, it should be emphasized with a great deal of confidence that the legal instruments set out in the RDP shape Polish agriculture. The Polish state does not offer farmers any national system to support their investments, or income. In this perspective, the question arises about the future of Polish agriculture in a situation of a significant reduction in appropriated grants or the completion of certain legal mechanisms. Therefore, an important element in the development of Polish agriculture is the best use of the support offered in the financial perspective for 2014–2020.

The measure which has the most funds allocated to it (more than EUR 2 billion in the period 2014–2020¹⁹) is investments in fixed assets referred to in art. 17 of Regulation 1305/2013. This measure includes investments in intangible or tangible goods, which improve the overall performance and sustainability of a farm. These results are verified both *ex ante* and *ex post*. Farmers through these investments may not only buy new equipment, or production technology but above all, through the introduction of new technology, they can increase the performance of their farm, and thus affect the growth of competitiveness of agriculture in the long run. In addition, investments in fixed assets may concern the processing, marketing or development of agricultural products covered by Annex I to the Treaty on the Functioning of the European Union or cotton, with the exception of fishery products. In this regard, they include both machinery, equipment, and the purchase, for example, know-how²⁰ associated with agricultural production. Covering specific agricultural products by this measure is associated with the

¹⁷ J. Pawłowska-Tyszko, *Nowe instrumenty zarządzania ryzykiem w rolnictwie krajów członkowskich UE a rozwój zrównoważony*, “Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu” 2016, No. 436, pp. 199–208.

¹⁸ M. Parlińska, M. Wielechowski, *Założenia Wspólnej Polityki Rolnej w perspektywie finansowej 2014–2020*, “Zeszyty Naukowe SGGW w Warszawie. Problemy Rolnictwa Światowego” 2016, Vol. 16(31), No. 1, pp. 177–186.

¹⁹ RDP, p. 632.

²⁰ V. Scafarto, F. Ricci, F. Scafarto, *Intellectual capital and firm performance in the global agribusiness industry: the moderating role of human capital*, “Journal of Intellectual Capital” 2016, No. 17(3); R. Grochowska, *Partnerstwa innowacyjne jako nowa koncepcja wdrażania in-*

philosophy of a holistic approach to the agricultural market and the CAP. Similar regulations can be found in the provisions of the Single CMO.

After all, investments in fixed assets relate to the infrastructure associated with the development, modernization and adaptation of agriculture and forestry, including access to farm and forest land, land consolidation and improvement, and supply and saving of energy and water. They correspond to the overall objectives of the CAP after 2013, where next to support for competitiveness and young farmers²¹, issues related to the protection of the natural environment, climate²² and the greening policy²³ are a focal point. Supporting investments in new equipment making energy and water savings possible by modernizing all of agriculture should contribute to increasing the environmental awareness of farmers²⁴, and through the granted funds to increase the level of environmental protection. Such an approach will fulfil one of the basic assumptions of the reform of the CAP after 2013 associated with a new approach to the principles of preserving the natural environment and climate.

These environmental aims are confirmed by the content of art. 17 sec. 1 letter d of Regulation 1305/2013, which indicates that the investments undertaken within the framework of this measure should be non-productive investments linked to the achievement of agri-environmental and climate objectives including those concerning the state of conservation of biological diversity of species and habitats, as well as increasing the public utility of the Natura 2000 area or other systems of high natural value, which will be identified in the programme. This provision clearly refers to the promotion of environmental investments aimed at increasing agricultural productivity but also the use of modern technologies and equipment in the process of agricultural production.

In the Polish RDP such a legal instrument affecting the environment in terms of investments is for instance priority 4 “Restoring, preserving and enhancing ecosystems dependent on agriculture and forestry”, specific objective 4a “Restoring, preserving and enhancing ecosystems dependent on agriculture and forestry,

nowacji w sektorze rolnym w Polsce, “Roczniki Naukowe Stowarzyszenia Ekonomistów Rolnictwa i Agrobiznesu” 2015, Vol. 17, No. 3.

²¹ M. Adamowicz, A. Szepełuk, *Support to Young Farmers as Part of Agricultural Policy of the European Union*, “Problems of Agricultural Economics” 2016, No. 3, pp. 106–127.

²² M. Kirchner, M. Schönhart, E. Schmid, *Spatial impacts of the CAP post-2013 and climate change scenarios on agricultural intensification and environment in Austria*, “Ecological Economics” 2016, Vol. 123, pp. 35–56.

²³ C. Emmerling, R. Pude, *Introducing Miscanthus to the greening measures of the EU Common Agricultural Policy (CAP)*, “Global Change Biology Bioenergy” 2016; A. Barnes, L.A. Sutherland, L. Toma, K. Matthews, S. Thomson, *The effect of the Common Agricultural Policy reforms on intentions towards food production: Evidence from livestock farmers*, “Land Use Policy” 2016, No. 50, pp. 548–558.

²⁴ A. Kasperowicz-Stępień, K. Stabryła-Chudzio, *Development of organic farming in Poland after 2013 in terms of Common Agricultural Policy*, “EUREKA: Social and Humanities” 2016, No. 3, pp. 43–52.

in particular, restoring, preserving and enhancing biodiversity, including in Natura 2000 areas and areas facing natural or other specific constraints, and agriculture with high natural value, as well as the state of European landscapes". According to the RDP, investment aid, aid for equipping farms with adequate devices and equipment will help farms located in Natura 2000 areas operate under heightened environmental standards²⁵. This means that there is a legal possibility to apply for special assistance by agricultural producers, who work on areas of special environmental importance for Europe. In exchange for the introduced restrictions, the RDP provides an assistance mechanism making it possible to undertake the investment. Due to the possibility of applying new technological solutions in the field of environmental protection, the planned type of operation is also pro-innovative and in line with the cross-cutting objectives of the environment and climate. In this regard, one can observe the complexity of the offered aid related to environmental protection. In particular, this involves other activities offered on the Natura 2000 areas²⁶. The assistance provided under this priority is the purchase of equipment for the production and harvesting of plants on permanent grassland, including equipment for the removal of trees and shrubs and the selective removal of weeds and invasive plants. In addition, equipping pastures and the construction of livestock buildings and equipment for livestock production in order to develop herbivorous animal husbandry, ensuring the rational use of grassland on the farm²⁷.

At the moment, there is no state aid beyond the mentioned European funds in financing innovation in agriculture²⁸. Also a system of information needs to be developed about the possible purchase of equipment and machinery, which should satisfy the needs of farmers in the most appropriate way possible. This type of development should include technical and performance data of new devices. This will allow farmers at the outset to become familiar with the financial possibilities, and effectively arrange a business plan for their activities²⁹.

Attention also needs to be paid to launching aid loans to farmers investing in fixed assets. The problem in this action is only the partial refund (usually 50–60%) of eligible costs incurred. For farmers who do not have their own financial resources finding the appropriate amounts that are sufficient to finance the total investment can be difficult. Therefore, it should be recommended *de lege ferenda* to create legal mechanisms that will enable aid to farmers in the form

²⁵ RDP, pp. 178–179.

²⁶ O. P. Ostermann, *The need for management of nature conservation sites designated under Natura 2000*, "Journal of Applied Ecology" 1998, Vol. 35, issue 6, pp. 968–973.

²⁷ RDP, pp. 181.

²⁸ J. Stoksik, *Formy wspierania rozwoju gospodarstw rolnych Programie Rozwoju Obszarów Wiejskich na lata 2014–2020*, "Studia Iuridica Agraria" 2015, Vol. XIII, pp. 179–198.

²⁹ A. Niewiadomski, *Rodzinne gospodarstwo rolne wobec ochrony środowiska w prawie polskim i europejskim*, (in:) P. Liwtiniuk (ed.), *Prawne mechanizmy wspierania i ochrony rolnictwa rodzinnego w Polsce i innych państwach Unii Europejskiej*, Warsaw 2015, pp. 141–151.

of preferential loans, sureties or bank guarantees. Without the proper financial stimulus, this measure may turn out to be designated only for farmers who are financially adequately prepared.

With the development of innovation in agriculture there corresponds a new approach to organic farming³⁰. The RDP was allocated more than EUR 445 billion for this measure³¹. In art. 29 of Regulation 1305/2013 it is clearly indicated that the support under this measure shall be granted per hectare of agricultural land to farmers or groups of farmers who voluntarily undertake to convert or maintain practices and methods of organic farming as defined in Regulation (EC) No 834/2007 and who are professionally active farmers within the meaning of art. 9 of Regulation (EU) No 1307/2013³². The analysis of this provision clearly indicates the preference of the legislator in the use of not only traditional methods of agriculture in the process of agricultural production, but also a departure from extensive agriculture. It also clearly indicated that organic farming will then be funded when it will be conducted by a professionally active farmer³³. This means that the aid goes to those entities who should demonstrate considerable activity in the agricultural sector. The above-cited art. 9 of Regulation 1307/2013 indicates that a professionally active farmer is one whose annual amount of direct payments is at least 5% of the total income earned by him from non-agricultural activities in the last financial year for which such evidence is available. In addition, the agricultural activity is non-marginal or its principal business or subject of activity constitutes the execution of agricultural activities.

The specialization of agriculture, by directing aid to the people professionally involved in agriculture, is an indicator of the new development factors of agriculture. The example presented above of the combination of appropriated aid in organic farming with the activity requirement indicates the basic characteristics shaping Polish agriculture. It should be not only productive, competitive and secure in terms of the produced agricultural products, but also conducted by farmers who are active in the sphere of agricultural activity. Such an approach means that aid from the rural development policy will mainly go to farmers who will be able to use and invest it effectively.

The specialized approach to agricultural production is all the more desirable because the RDP clearly identifies the objectives for which the funds related to

³⁰ S. Prutis, *Regulacje prawne produkcji ekologicznej w rolnictwie polskim*, "Studia Iuridica Agraria" 2013, Vol. XI, pp. 39–60.

³¹ RDP, p. 639.

³² M. A. Król, *Rola gospodarstw rodzinnych w prawnej ochronie zasobów środowiska i różnorodności biologicznej*, (in:) P. Liwtiniuk (eds.), *Prawne mechanizmy wspierania i ochrony rolnictwa rodzinnego w Polsce i innych państwach Unii Europejskiej*, Warsaw 2015, pp. 153–174.

³³ S. Prutis, *Ochrona środowiska za pomocą instrumentów prawno-finansowych Wspólnej Polityki Rolnej*, "Studia Iuridica Agraria" 2015, Vol. XIII, pp. 39–64.

organic production will be allocated³⁴. They include abandoning to use in food production agricultural, veterinary and food chemicals³⁵. It was also noted that this applies to all types and stages of production – both crops, farming and animal husbandry as well as processing. Organic farming corresponds to the implementation of the reform of the CAP in terms of increasing the importance of environmental protection in the process of agricultural production. The objectives of the payment system indicate this. The RDP distinguishes preventing soil erosion and improving soil management; restoring, preserving and enhancing biodiversity, including in Natura 2000 areas and areas facing natural or other specific constraints, and agriculture with high natural value, as well as the state of European landscapes, or the improvement of water management, including fertilizer and pesticide use.

The new agricultural policy after 2013 focusing on the interests of a professionally active farmer and the system of environmental protection and preservation of biodiversity determines the shape of the legal instruments that can be used to increase the indicators described for each measure. Just as in the previous example, so in organic farming, the farmer can count on aid consisting in a refund of part of transaction costs and the payment of eco-dependent crops³⁶. In terms of possible *de lege ferenda* postulates, a control system should also be developed for controlling not only spending the granted aid, but above all the quality of the manufactured products, which are to meet the requirements of greening agriculture. The effects of organic farming should be seen as the future of agriculture associated with the formation of healthy food that cares about the safety of the consumer. Undoubtedly, an important factor for increasing the capacity of use of funds in this measure will be aid to farmers in term of explaining the terms and standards used in the conversion to organic farming³⁷. The regulations concerning organic farming in Polish law³⁸ presented by Stanisław Prutis clearly shows their multidimensional nature and the need for specialized legal assistance in the interpretation of individual provisions. This is connected also with the marketing of organic food³⁹.

³⁴ P. Gała, *Problematyka bioróżnorodności w nowym PROW na lata 2014–2020*, “*Studia Iuridica Agraria*” 2015, Vol. XIII, pp. 165–178.

³⁵ RDP, p. 560.

³⁶ Crop farming after the conversion period – 792 PLN/ha, Vegetable cultivation after the conversion period – 1310 PLN/ha, Herbs cultivation after the conversion period – 1325 PLN/ha, Cultivation of fruit after the conversion period – 1501 PLN/ha (basic fruit growing) and 660 PLN/ha (extensive fruit cultivation), Fodder crops on arable land after the conversion period – 559 PLN/ha, Permanent grassland after the conversion period – 428 PLN/ha – RDP, p. 564.

³⁷ P. Wojciechowski, *Gospodarstwo rodzinne jako gospodarstwo ekologiczne w prawie polskim i prawie UE*, (in:) P. Liwtiniuk (ed.), *Prawne mechanizmy wspierania i ochrony rolnictwa rodzinnego w Polsce i innych państwach Unii Europejskiej*, Warsaw 2015, pp. 117–140.

³⁸ S. Prutis, *Regulacje prawne produkcji ekologicznej...*, pp. 39–60.

³⁹ M. Korzycka-Iwanow, P. Wojciechowski, *Żywność ekologiczna w prawie USA i Unii Europejskiej*, “*Studia Iuridica Agraria*” 2015, Vol. XIII, pp. 19–38; A. Kapała, *Prawne uwarunkowania wsparcia krótkich łańcuchów dostaw żywności w PROW 2014–2020*, “*Studia Iuridica*

Another issue influencing agriculture is agri-environment-climate measures related to the functioning of the two previously described instruments. In terms of the first two units, they implement the assumptions of agri-environmental measures of the RDP 2007–2013. In the new financial perspective the issue of climate protection in agriculture was attached to them, as well as methods to achieve its improvement. More than EUR 753 billion was allocated to this measure in the RDP 2014–2020⁴⁰. According to art. 28 of Regulation 1305/2013 “Member States shall provide support under this measure throughout their entire territory in accordance with their national, regional or local specific needs and priorities”. This means that the Member States themselves freely choose environmental priorities, which they intend to support. This allows for a better system of appropriated aid in terms of new instruments for improving the profitability of agriculture⁴¹. The quoted provision assumes that “this action is to preserve and promote the necessary changes in agricultural practices, which are a positive contribution to the environment and climate. Its inclusion in the rural development programmes is mandatory at a national or regional level”.

As opposed to the greening policy⁴², agri-environment-climate measures are voluntary and intended for those who undertake to carry out operations involving one or more agri-environment-climate obligations concerning agricultural land, which are to be defined by the Member States, including those related to, but not only, agricultural areas. These payments include measures to prevent soil erosion, conducive to the development of organic farming, support for Natura 2000 areas, support for conservation and sustainable use and development of genetic resources in agriculture. The support provided is compensatory of the challenges undertaken and strengthens the implementation of environment-friendly production techniques in the given areas⁴³.

Agraria” 2015, Vol. XIII, pp. 151–164; Ł. M. Sokołowski, *Bezpieczeństwo środowiska jako przesłanka wprowadzenia nowej żywności do obrotu na obszarze Unii Europejskiej*, (in:) B. Jeżyńska, E. Kruk (eds.), *Prawne instrumenty ochrony środowiska*, Lublin 2016, pp. 367–380.

⁴⁰ RDP, p. 638.

⁴¹ P. Litwiniuk, *Uproszczenia Wspólnej Polityki Rolnej – nośny slogan czy absolutna konieczność?*, “*Studia Iuridica Agraria*” 2015, Vol. XIII, pp. 101–116.

⁴² D. Milanowska, *Platność za zazielenienie w nowym modelu dopłat bezpośrednich*, “*Studia Iuridica Agraria*” 2015, Vol. XIII, pp. 7–18; A. Niewiadomski, *Neues Funktionssystem europäischer Stützungsregelungen für Inhaber landwirtschaftlicher Betriebe in Schutzgebieten Natura 2000 in der Förderperiode 2014–2020*, “*Studia Iuridica*” 2015, Vol. 61, pp. 233–250; M. A. Król, *Środowiskowy wymiar płatności w ramach systemów wsparcia bezpośredniego – zagadnienia prawne*, (in:) B. Jeżyńska, E. Kruk (eds.), *Prawne instrumenty ochrony środowiska*, Lublin 2016, pp. 295–312.

⁴³ M. A. Król, A. Niewiadomski, *Rodzinne gospodarstwa rolne w systemie prawnym ochrony środowiska i zrównoważonego rozwoju*, (in:) M. Podstawka (ed.), *Ekonomiczne i prawne mechanizmy wspierania i ochrony rolnictwa rodzinnego*, Warsaw 2015, pp. 240–255.

As a result of agri-environment-climate measures⁴⁴ the following types of objectives are to be achieved: restoring, preserving and enhancing biodiversity, including in Natura 2000 areas⁴⁵ and areas facing natural or other specific constraints, and agriculture with high natural value, as well as the state of European landscapes, or the improvement of water management, including fertilizer and pesticide use. In terms of environmental impact on air, it is assumed to promote the protection of carbon sinks and carbon sequestration in agriculture and forestry, as well as reducing emissions of greenhouse gases and ammonia from agriculture⁴⁶. If farmers operating in these areas benefit from the assistance offered this can have a positive impact not only on their income but mainly on the improvement of the environment, thus improving the quality of life of society.

More than EUR 1.4 billion⁴⁷ is allocated in the new RDP for the development of farms and business. This measure, in accordance with art. 19 of Regulation 1305/2013 covers assistance to starting a business for: young farmers; non-agricultural activities in rural areas; the development of small farms. The funds under this measure may also be obtained for investments in the creation and development of non-agricultural activities and annual payments or lump sum payments for farmers eligible for the scheme for small farms, who permanently donated their farms to another farmer.

According to the RDP these are measures directed primarily to support agricultural activities undertaken by young farmers. Similar support was very popular in the previous programme period and contributed to young people, who decided to take advantage of it, to stay in the countryside. Currently “Bonuses for young farmers” implement the specific objective related to facilitating farmers who have the right skills to enter the agricultural sector, in particular the exchange of generations. The aid, like in the years 2007–2013, is addressed to young people (up to 40 years old) with the relevant professional qualifications, who are starting to run an agricultural holding as a manager for the first time. This leads to granting aid to farmers who will be professionally active in the business and achieve an appropriate level of specialization. This approach once again illustrates the complexity of the solutions adopted. As stated in the RDP, the offered aid “will contribute to the implementation of the cross-cutting objective in the scope of innovation by directing support to young people who are more willing to take an investment risk and introduce innovative solutions in the farm related to the organization of pro-

⁴⁴ E. Nawrotek, *Działania rolno-środowiskowo-klimatyczne jako instrument ochrony środowiska w rolnictwie*, (in:) B. Jeżyńska, E. Kruk (eds.), *Prawne instrumenty ochrony środowiska*, Lublin 2016, pp. 353–366.

⁴⁵ A. Niewiadomski, *Prawne instrumenty kształtowania obszarów Natura 2000 w Polsce*, (in:) B. Jeżyńska, E. Kruk (eds.), *Prawne instrumenty ochrony środowiska*, Lublin 2016, pp. 327–338.

⁴⁶ A. Niewiadomski, *Wspólna Polityka Rolna po 2013 r. – wybrane problemy prawne*, “*Studia Iuridica Agraria*” 2015, Vol. XIII, pp. 117–132.

⁴⁷ RDP, p. 634.

duction, the product and production technology. Preference for the participation of young farmers in organized forms of cooperation of agricultural producers are also conducive to the implementation of innovative solutions. It is expected that the executed projects will contribute to the achievement of cross-cutting objectives in the scope of environment and climate change mitigation as well as adaptation to this change. The impact on cross-cutting objectives may be the preferred choice of operation within the system.

Support for young farmers is one of the key legal instruments, which affects the development of the agrarian structure in Poland, while contributing to the generation changes in agriculture. The presented mechanism must, however, be enhanced by the proper aid for these people. First of all, they should have a place where they can acquire the appropriate qualifications and gain knowledge. Agricultural education in this field should not only impart knowledge about the traditional methods of farming but also to a large extent influence the acquisition of information about innovations. A thus prepared young farmer should be able to prepare a business plan and estimate the size of the necessary support. At this point a postulate should be repeated for a system of preferential loans, which would allow to apply for European aid and would not require the involvement of disproportionate funds from commercial loans in the initial period of operation. The agricultural national policy for young farmers should also develop a system of agricultural advisory services and agricultural technology assistance after obtaining the appropriate grants. The combination of European and national legal instruments should strengthen the competitive position of beneficiaries of this aid.

The legal instruments presented in the paper, shaping agriculture in the light of the objectives of the Rural Development Programme, are the backbone of support provided to farmers. Poland has no other instruments for supporting farmers on such a scale. There are mainly no national instruments for the development of agriculture and support of agricultural income. It is impossible to include in them preferential loans due to natural disasters. A farmer, beyond the resources from European funds, can only invest his own individual financial resources which he possesses. In the long term, such a policy can make Polish agriculture completely dependent on the decisions that are made at the Community level⁴⁸. Even now we need to analyse what mechanisms could be offered to farmers in a situation when the economic value of funds transferred from the European funds are significantly reduced. The durability of the described elements will depend on further development opportunities for farmers after receiving support. Without such a system, aid through the legal instruments indicated in the paper may turn out to be ad hoc and short-term.

⁴⁸ P. Litwiniuk, *Prawna ochrona bioróżnorodności jako element zrównoważonego rozwoju obszarów wiejskich*, (in:) B. Jeżyńska, E. Kruk (eds.), *Prawne instrumenty ochrony środowiska*, Lublin 2016, pp. 313–326.

We must now undertake work related to the development of legal possibilities for supporting farmers who want to apply for aid from European funds. Most of these instruments, especially investment, are based on the principle of reimbursement. This means that a farmer must have adequate financial resources before he can apply for aid from the RDP. This approach significantly reduces the number of potential beneficiaries to farmers who are already realizing their investments without European support. De lege ferenda the existing agricultural advisory services should be supported, legal and economic measures should be for once created to help farmers in achieving the expected effect of support. Only such an approach will ensure that the legal instruments of rural development policy indicated above will be able to shape Polish agriculture.

Aid in the development of Polish agriculture should not only be appropriate national legislation, as implementing normalizations to the legal acts cited in the paper, but also specialized assistance for farmers⁴⁹. It is necessary to develop intricate laws in a manner that is accessible to the average farmer. This will not only increase the level of absorption of funds from the budget, but also make it easier for farmers to select the manner and type of agricultural activity performed by them. The authorities of public administration face a great challenge in this regard, which should set up effective information campaigns on the possibilities of support which the rural development policy offers.

Therefore, more weight needs to be applied to informing farmers not only about the possible support but also about the consequences of the aid provided. Complex legislation will not always be able to provide clear answers to the problems of farmers, particularly in terms of the share of allocated funds in achieving various economic indicators.

The problem with the selection of mechanisms that shape agriculture could gain strength in the event of changes in financial assumptions at the end of the current financial perspective in 2020. The decrease observed for several years by nearly 30% of spending for financing the Common Agricultural Policy allows to foresee the further relocation of budget funds in sectors other than agriculture. The question is whether agriculture without these funds will be able to compete, not only within the Community, but also in relation to third countries. These concerns are all the more justified, if the provisions of trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) or the Comprehensive Economic and Trade Agreement (CETA) are implemented. Farmers will have to face new challenges, perhaps counting only on their own funds to date. In this regard, an analysis should be done concerning the future of the agricultural sector and the selection of new legal instruments which will affect the functioning of agriculture in the new economic and legal conditions.

⁴⁹ A. Niewiadomski, *Kwestia prośrodowiskowa w prawie rolnym – między prawem a ekonomią*, (in:) P. Litwiniuk (ed.), *Kwestia agrarna. Zagadnienia prawne i ekonomiczne*, Warsaw 2016, pp. 427–440.

SELECTED LEGAL INSTRUMENTS SHAPING CONTEMPORARY POLISH AGRICULTURE IN THE RURAL DEVELOPMENT PROGRAMME 2014–2020

Summary

The article presents the basic legal mechanisms shaping modern agriculture through the Rural Development Programme 2014–2020. It discusses the main problems of juridical character, which could be an obstacle in the use of financial resources by farmers. It also underlines the importance of the existing support mechanisms due to the size of allocated grants for Poland. At the same time it draws attention to the possible CAP reform after 2020 and the resulting possible restrictions in financing the Community policy in agriculture.

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KEYWORDS

Common Agricultural Policy, rural development policy, Rural Development Programme, agricultural law, CAP reform

SŁOWA KLUCZOWE

Wspólna Polityka Rolna, polityka rozwoju obszarów wiejskich, Program Rozwoju Obszarów Wiejskich, prawo rolne, reforma WPR