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SELECTED REGULATIONS OF THE COMMON AGRICULTURAL POLICY AFFECTING THE COMPETITIVENESS OF POLISH AGRICULTURE IN THE NEW FINANCIAL PERSPECTIVE

The starting new financial perspective linked with assistance deriving from European funds for Polish agriculture poses new challenges for potential beneficiaries. Besides the pro-environment element related to the so-called greening policy¹, one of the basic features of distributed aid is still to increase competitiveness² of

Research carried out by Dr Adam Niewiadomski was funded by the National Science Centre allocated under the internship after obtaining the doctoral degree based on decision number DEC-2012/04/S/HS5/00338.

¹ B. Jankowski, *Oddziaływanie Wspólnej Polityki Rolnej na ochronę środowiska*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 515–525; B. Jeżyńska, *Proekologiczne instrumenty wsparcia zrównoważonego rozwoju obszarów wiejskich*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 253; A. Niewiadomski, *Problematyka prawna rekompensat za ustanowienie formy ochrony przyrody – obszarów Natura 2000 na obszarach wiejskich*, „Studia Iuridica Agraria”, Vol. XII, Białystok 2014, p. 67; S. Prutis, *Regulacje prawne produkcji ekologicznej w rolnictwie polskim*, „Studia Iuridica Agraria”, Vol. XI, Białystok 2013, p. 39–59.

² W. Poczta, P. Siemański, *Konkurencyjność rolnictwa polskiego po przystąpieniu do Unii Europejskiej*, Poznań 2010, p. 11; A. Woś, *Konkurencyjność potencjalna polskiego rolnictwa*, Warszawa 2001; K. Meredyk, *Przesłanki wzrostu konkurencyjności gospodarki polskiej*, [in:] *Konkurencyjność gospodarki Polski w dobie integracji z UE i globalizacji*, eds. J. Bossak, W. Bieńkowski, Warszawa 2001; M. E. Porter, *The Competitive Advantage of Nations*, New York 1990, for: R. J. Stimson, R. R. Stough, R. H. Roberts, *Regional Economic Development. Analysis and Planning Strategy*, Berlin 2006, s. 207; J. Bossak, *Międzynarodowa konkurencyjność gospodarki polskiej – ujęcie instytucjonalne*, [in:] H. Podedworny, J. Grabowiecki, H. Wnorowski, *Konkurencyjność gospodarki polskiej a rola państwa przed akcesją do Unii Europejskiej*, Białystok 2000; M. Słodowa-Hełpa, *Konkurencyjność – główne wyzwanie dla polskiego sektora rolno-żywnościowego w zintegrowanej Europie*, [in:] *Rolnictwo polskie we Wspólnej Polityce Rolnej Unii Europejskiej*, ed. Z. W. Puślecki, M. Walkowski, Poznań 2004.

agriculture relative to other sectors of the economy³. In the case of Poland, increasing national competitiveness will also concern undertaking competition by Polish agricultural producers on the European market.

Already in 2012⁴, by analysing the current functioning of agricultural subsidies from European funds, we pointed out that these funds cause an increase in regional competitiveness in the agricultural sector⁵. Even then we emphasized that some of the activities under the Rural Development Programme 2007–2013 do not in fact serve to improve competitiveness, but they are a maintenance mechanism for Polish farmers⁶. A typical example subjected to legal and economic analysis, which demonstrated this thesis, was the effectiveness of structural pensions⁷. In this regard, most of the funds allocated to help farmers who have expressed their intention to phase out agricultural activities were spent on current needs and did not contribute to significant investments in the agricultural sector. We appealed to review the economic efficiency of specific activities in the new financial perspective and to leave only those that have a significant impact on the level of competitiveness of Polish agriculture.

The assistance programmes for the years 2014–2020 implemented since 2014 seem to realize this postulate only in part. The choice of legal mechanisms in the new financial perspective is not always aimed only at improving the competitiveness of farming activities⁸ but it significantly affects the environment or social structure of rural areas. It is true that the most cost-intensive activities and those that do not have a major impact on increasing competitiveness were dropped, such as the structural pensions mentioned above, but there are still legal mechanisms which should be further developed not only in terms of legislation, but also in-depth economic analyses⁹. It is worth mentioning the submeasure 6.5 indicated

³ P. Czechowski, *Proces dostosowywania polskiego prawa rolnego i żywnościowego do prawa Unii Europejskiej*, Warszawa 2001.

⁴ W. Poczta, *Change in Agriculture with Particular Focus on Structural Transformations*, [in:] J. Wilkin, I. Nurzyńska, *Rural Poland 2012 Rural Development Report*, Warszawa 2012.

⁵ A. Z. Nowak, A. Niewiadomska, *Wpływ funduszy strukturalnych na wzrost konkurencyjności polskiego rolnictwa – wybrane aspekty ekonomiczne*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 307–325; P. Czechowski, A. Niewiadomski, *Wpływ funduszy strukturalnych na wzrost konkurencyjności polskiego rolnictwa – aspekty prawne*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 326–334.

⁶ See also P. Cichalewska, S. Brodecki, *Wpływ Programu Rozwoju Obszarów Wiejskich 2007–2013 na konkurencyjność polskiego rolnictwa*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 355–365.

⁷ B. Tańska-Hus, *Renty strukturalne jako instrument poprawy struktury obszarowej rolnictwa i przyspieszenia wymiany pokoleń*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 404–423.

⁸ P. Czechowski, A. Niewiadomski, *Tendencje rozwoju polskiego prawa rolnego w związku z nabyciem członkostwa Polski w Unii Europejskiej*, „Studia Iuridica Agraria” 2009, Vol. VII, p. 30–45; B. Jeżyńska, *Proekologiczne instrumenty...*, p. 251–264.

⁹ A. Niewiadomska, A. Niewiadomski, *Structural Funds of Polish Agriculture*, „World Academy of Science, Engineering and Technology” 2012, issue 71, p. 1804–1810.

in the Rural Development Programme 2014–2020 – Payments to farmers eligible for the system for small farms, who permanently donated their farms to another farmer, which in its mechanism appears to be similar to the mentioned structural pensions.

The question is how the new legal mechanisms¹⁰, in a relatively rapidly changing economic environment, will affect Polish agriculture? Will further subsidies lead to a significant increase in the competitiveness of this economy sector? It should also be emphasized that the directions of changes of the Common Agricultural Policy indicated in 2013 allow to state that the funds allocated to agriculture in such an amount are already the last chance to change the way in which agricultural activities are done and to increase its profitability¹¹. It is worth looking at the individual activities of RDP in terms of implementation of the goal to raise competitiveness of not only the entire agricultural sector but also individual farms¹². The following overview of selected legal problems in specific activities is only a contribution to the broader discussion on the economic and legal state of Polish agriculture in the European context¹³. Has the Common Agricultural Policy¹⁴ realized in Poland for almost 12 years been bringing the expected results and moving agricultural income closer to the Community level?

Improving competitiveness is also one of the declared objectives of the CAP reform. In the Message from the Commission to the European Parliament, the Council, the European Economic and Social Committee of Regions “CAP until 2020: meeting the challenges of the future associated with food, natural resources and territorial aspects”¹⁵ it was indicated as follows: “Improving the competitiveness of the agricultural sector and enhancing its qualitative share in the food

¹⁰ E. Tomkiewicz, M. Bocheński, *Polityka rozwoju obszarów wiejskich w perspektywie lat 2014–2020 w kontekście nowych wyzwań*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 239–250.

¹¹ J. Stoksik, *Wybrane zagadnienia ochrony interesów finansowych Unii Europejskiej w dziedzinie Wspólnej Polityki Rolnej*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 424–442; B. Jeżyńska, R. Pastuszko, *Pakiet legislacyjny WPR 2014–2020 w świetle podstaw prawa UE i prawa międzynarodowego. Kompleksowa analiza prawna*, Biuro Analiz i Dokumentów, OE – 186, 2012.

¹² D. Łobos-Kotowska, *Charakter prawny odmowy przyznania środków z Europejskiego Funduszu Rolnego na rzecz Rozwoju Obszarów Wiejskich*, „Studia Iuridica Agraria”, vol. VII, Białystok 2009, p. 179–191; T. Kurowska, *Założenia konstrukcyjne umowy przyznania pomocy z Europejskiego Funduszu Rolnego na rzecz Rozwoju Obszarów Wiejskich*, „Studia Iuridica Agraria”, Vol. VII, Białystok 2009, p. 163–178; S. Prutis, *Dobór instrumentów prawnych służących wsparciu rozwoju obszarów wiejskich*, „Studia Iuridica Agraria”, vol. VII, Białystok 2009, p. 192–203; P. Wojciechowski, *Odpowiedzialność administracyjna i karna beneficjentów pomocy z Programu Rozwoju Obszarów Wiejskich*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 281–306.

¹³ P. Czechowski, A. Niewiadomski, *Obszary wiejskie a planowanie przestrzenne*, „Studia Iuridica Agraria”, Vol. X, Białystok 2012, p. 227–238.

¹⁴ A. Jurcewicz, *Wspólna Polityka Rolna Unii Europejskiej*, [in:] *Prawo rolne*, ed. P. Czechowski, Warszawa 2011, p. 97–100.

¹⁵ <http://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A52010DC0672>.

chain, as the agricultural sector is characterized by high dispersion in comparison with other sectors of the food chain, which are organized better and therefore have a greater bargaining power. Furthermore, European farmers must face competition from world markets and at the same time they are forced to comply with the high standards associated with the objectives of environmental protection, food safety and its quality as well as animal welfare, which are required by the people of Europe¹⁷. This means that improving competitiveness is to be connected to both increasing food safety¹⁶ as well as with the requirements for environmental protection¹⁷ in agricultural production.

It needs to be noted at the outset that the combination of all these elements can slow down the process of raising competitiveness for European farmers, in relation to their competitors from countries such as the USA or China¹⁸. It should be considered today whether the stringent requirements for farmers in the European Union correspond to the needs of meeting the challenges posed outside the Community¹⁹.

The Polish Rural Areas Development Programme (PRDP) identifies 14 basic measures²⁰ which are funded under the programme. Only some of them can be

¹⁶ A. Woś, *Makroekonomiczne uwarunkowania rozwoju sektora żywnościowego*, [in:] *Analiza produkcyjno-ekonomicznej sytuacji rolnictwa i gospodarki żywnościowej w 2002 roku*, Warszawa 2003.

¹⁷ Z. Bukowski, *Zrównoważony rozwój w systemie prawa*, Toruń 2009; *Uwarunkowania ochrony środowiska: aspekty krajowe, unijne, międzynarodowe*, ed. E. Czech, Warszawa 2006; A. Niewiadomski, *Europejska Sieć Ekologiczna Natura 2000 a zrównoważony rozwój obszarów wiejskich*, „*Studia Iuridica Agraria*”, Vol. XI, Białystok 2013, p. 293–304; R. Wojciechowski, *Spoleczno-polityczne i ekonomiczne aspekty realizacji polityki ekologicznej*, [in:] *Administracja publiczna a ochrona przyrody. Zagadnienia ekonomiczne, społeczne oraz prawne*, eds. M. Górski, D. Niedziółka, R. Stec, D. Strus, Warszawa 2012, p. 87–98.

¹⁸ J. Biernat, *Polska gospodarka w świetle niektórych kryteriów oceny konkurencyjności gospodarki*, [in:] *Konkurencyjność gospodarki Polski w warunkach integracji z Unią Europejską i globalizacji*, ed. J. Staszewski, Warszawa 2004.

¹⁹ B. Wieliczko, *Mechanizmy oddziaływania funduszy strukturalnych na konkurencyjność polskiego rolnictwa*, „*Studia Iuridica Agraria*”, Vol. X, Białystok 2012, p. 443–457; P. Wojciechowski, *Postępowanie dotyczące przyznawania pomocy finansowej w ramach działań objętych Programem Rozwoju Obszarów Wiejskich*, „*Studia Iuridica Agraria*”, Vol. X, Białystok 2012, p. 335–354.

²⁰ They include: M01 – Transfer of knowledge and information; M02 – Consulting services, services in the field of farm management and services for replacements; M03 – Quality schemes for agricultural products and foodstuffs; M04 – Investments in fixed assets; M05 – Restoring agricultural production potential damaged by natural disasters and catastrophes and introducing appropriate preventive measures; M06 – Development of households and businesses; M07 – Basic services and village renewal in rural areas; M08 – Investments in the development of forest areas and improvement of the vitality of forests; M09 – Creating groups and producer organizations; M10 – Agri-environmental-climatic operations; M11 – Organic farming; M13 – Payments to areas facing natural or other specific constraints; M16 – Cooperation; M19 – Support for local development within the framework of the LEADER initiative (RLKS – local development led by the community).

considered as such that can significantly increase the competitiveness of Polish agriculture. They pursue quite hierarchically defined objectives – priorities such as easier transfer of knowledge and innovation in agriculture, forestry and rural areas; improving the competitiveness of all types of farming and increasing the profitability of farms; improving the organization of the food chain and promoting risk management in agriculture; restoring, preserving and enhancing ecosystems dependent on agriculture and forestry; promoting the effective management of resources and transition to a low-emission economy and one that is resilient to climate change in the sectors: agriculture, food and forestry, as well as increasing social inclusion, reducing poverty and promoting economic development in rural areas²¹. This means that in the current financial perspective, the improvement of competitiveness is only the second priority. Of course one should keep in mind here that in the broad meaning of the concept of competitiveness, each of these measures will have an impact on its level. Selected legal instruments which have a direct impact on the competitiveness of Polish agriculture will be presented further on in the discussion.

The main legal instrument, already present in the previous RDP are activities that support young farmers. In the RDP 2014–2020 they are contained in the measure Development of farms and economic activity. In addition to bonuses for young farmers, other submeasures are a bonus for starting a non-agricultural company and restructuring small farms. According to the RDP “support is granted in connection with starting an agricultural business. Support concerns the development of agricultural activity on a farm, as well as preparation for the sale of agricultural products produced on the farm”²². At this stage, the farmer is to receive specific aid, after meeting the conditions, in order to be able to undertake investment activities.

Further conditions entitling for the use of this instrument include meeting the criterion of being a young farmer, that is a person who has not reached 40 years of age, has appropriate professional qualifications and for the first time starts an agricultural business as the only head of the farm, that is until the date of submission of the application for aid the person has not been a head of the farm. Linking the commencement of agricultural activity with the requirements of the qualifications is to encourage the professionalization of the farmer profession and raise the competitive capacity of such a qualified person to start a business²³.

A legal problem arises already at the second requirement, where the person applying for aid should begin organizing the farm before the date of application

²¹ <http://www.minrol.gov.pl/Wsparcie-rolnictwa/PROW-2014-2020> – (1.04.2016).

²² RDP 2014–2020, p. 219.

²³ B. Klepacki, *Wykształcenie jako czynnik różnicujący zasoby, organizację i wyniki ekonomiczne gospodarstw rolniczych*, Warszawa 2005; T. Dołęgowski, *Konkurencyjność a procesy integracyjne w Europie*, Warszawa 2000.

for aid, but not earlier than 12 months before its submission²⁴. The question arises how the farmer should acquire funds for organizing the farm before submitting the application. Even if he has his own resources or will obtain a preferential credit, he's taking a large financial risk already at the start. Of course, it is connected with any kind of business, but some young farmers take it in the perspective of obtaining the bonus referred to in the discussed submeasure. The risk would be all the greater if the young farmer does not receive aid, then not only he would not improve the competitiveness of his business, but may run into financial trouble. It is a feature threatening not only the effectiveness of the disbursed funds, but also the existential basics of a young farmer.

Another issue required in the criteria for aid is a requirement for conducting the agricultural business personally. It was identified that "head of the farm conducts the agricultural business personally (works on the farm and makes all decisions on the farm), on his own account and on his own behalf, bears the costs and enjoys the benefits in relation to the business"²⁵. These regulations correspond to e.g. the normative definition of an individual farmer. The problem is the issue of verification and control of the personal conduct of the farm.

Bonus from the discussed measure can't be granted to a person who was awarded a bonus under the measure "Setting up of young farmers" RDP 2007–2013 or for a farm, for which bonus was granted under the measure "Setting up of young farmers" RDP 2007–2013, unless aid was granted, but has not been paid because of resignation or failure to comply with the conditions resulting from the decision to grant aid. This means elimination of a large part of farmers from accessing these funds. On the one hand, it should be evaluated positively because of the increased number of potential new beneficiaries. On the other hand, entrepreneurial farmers are excluded from the aid, who have already demonstrated the fulfilment of the relevant access criteria.

In the case of spouses, only one of them can get the bonus, regardless of whether they conduct a farm together or separate farms, and the spouse of a young farmer meets the conditions. The farmer shall receive help if it has appropriate professional qualifications resulting from education or work experience in agriculture.

²⁴ According to the RDP "Organizing a farm starts with the moment when the person applying for aid has become the owner or took possession of the farm, and ends with the start of agricultural business as head of the farm.

If organizing the farm:

1) is started by a minor, the period of 12 months is counted from the date of this person coming of age;

2) starts as a result of inheritance, the period of 12 months is counted from the date of obtaining a final court decision on the acquisition of inheritance".

²⁵ According to the RDP "The following prove in particular conducting an agricultural business as the only head of the farm: registering livestock in order to conduct agricultural business, applying for direct payments, applying for financial assistance for farmers under the EU programs or national aid, keeping a special department of agricultural production".

According to the RDP, the condition relating to professional qualifications is met, if the young farmer has agricultural qualifications, confirmed by an appropriate certificate or diploma, or equivalent work experience in agriculture or shall complement professional qualifications (education) within 36 months from the date of receipt of the decision to grant assistance. This means that the person who applies for assistance can complete his qualifications later. Such a regulation increases the availability of potential aid for people who want to get interested in agricultural activity. At the same time it causes that aid can get to the beneficiary who will not have qualifications in the initial period to use the allocated funds best. It is true that a number of security mechanisms has been provided in case of any failures, like the need to present a business plan²⁶ concerning the development of the farm, but it must also be made clear that they may be obligations undertaken by a person whose knowledge of the agricultural activity can be dramatically verified by reality. The question is whether such allocated funds can significantly raise the competitiveness of the Polish agricultural sector or will they only help to learn the profession for young farmers.

The competitiveness of this assistance funds is also measurable. In the RDP it was determined that as a result of the business plan, an increase in economic size of the farm by at least 10% will take place. This means that such aid should be used in the manner specified in the business plan at the same time bringing the increase in the value of the farm. This increase, in turn, should translate into improved competitiveness of the farm and its investment capacity, and thus increase the competitiveness of the entire agricultural sector. Practical problem remains only to develop criteria for assessing the ex-ante and ex-post value of the farm and the impact of the aid on the increase of this value.

Some help can be an obligation of the beneficiary to start conducting a simplified accounting on the farm not later than on the date of commencement of the realization of business plan and to conduct such accounting at least until the expiry of the target period. Accounting books in this area can give objective criteria for measurability of the achieved results. However, it needs to be remembered that the increase in the economic value of a farm can be affected not only by the granted aid, but many external factors. Separating these factors from the assistance funds can be a difficult task when there is a need for a fair assessment of the impact of aid on the Polish agriculture.

²⁶ According to the RDP: the farm specified in the business plan: has agricultural area at least equal to the national average, and in the case of farms located in the voivodeship with an average lower than the national – at least equal to the voivodeship average, and not more than 300 hectares; at least 70% of the minimum size referred to in the preceding point (basic part of the farm), is the subject of ownership of the beneficiary, perpetual usufruct or lease of agricultural property of the State Treasury or LGU; it has an economic size of not less than 13 thousand EUR and not more than 150 thousand EUR.

The beneficiary should become a professionally active farmer in the meaning of EU rules on direct payments within 18 months from the start of agricultural business. Furthermore, he should be subject to social insurance of farmers under the Act on social insurance of farmers as a farmer under the law and in full for at least 12 months from the date of payment of the first instalment of assistance.

The granted aid should affect the sustainability of the conducted agricultural business. In this regard, the beneficiary conducts a farm as the head at least until the expiry of the target period. The support granted in the amount of 100,000 PLN should affect competitiveness and investment opportunities of a newly created farm, provided there is a conducive legal environment. Some risks mentioned above may affect the state of distribution of this aid to farmers. According to the intended law, one should consider the possibility of clarifying the specific criteria of access to help, and in a larger size standardize a method for evaluating the condition of the increase of the economic value of the farm²⁷.

Another submeasure aimed to improve the competitiveness of the agricultural sector are bonuses for starting a non-agricultural company. This form of assistance should result in retraining farmers, whose farms do not achieve satisfactory income, and are therefore not able to compete on the market.

Assistance within the bonus for starting a non-agricultural company may prefer above all innovative investments; carried out by persons who are beneficiaries of the measure “Payments to farmers transferring small farms”; carried out by persons resident in the poviats with the highest level of unemployment in the voivodeship; involving the creation of FTE jobs (does not concern self-employment); carried out by persons who are qualified in the field of non-agricultural activities foreseen in the business plan. Bonuses combine several aspects of possible assistance. On the one hand, they may prefer entities that permanently get rid of the farms, on the other allow non-agricultural activities on farmland.

Measures such as bonuses for starting a non-agricultural company influence the competitiveness of agriculture as much as they eliminate from the market entities that are not efficient in terms of profits and investments. Through assistance they allow farmers to take up a different type of business or employment, thus affecting the level of competitiveness of the economy. Such an assertion is all the more justified that the support is 100,000 PLN. This allows farmers for retraining and starting other non-agricultural activities.

²⁷ Difficulties in this regard were noticed in the RDP: “Difficulties in the confirmation of the economic size of the farm in the case of field crops in the absence of the possibility of a detailed verification of the type and area of declared crops, due to further simplifications of the rules for granting area payments. Difficulties in carrying out inspection activities for all farms for which an application for aid was submitted, in particular when the application deadline will prevent the confirmation of the structure of crops on the given farm in the time required to handle the application. Difficulties in monitoring the successful implementation of the business plan”, RDP 2014–2020, p. 222–223.

Some doubts, also highlighted in the RDP, are caused by the evaluation of economic viability of new projects undertaken by farmers. There is a risk whether the adopted business plan can be effectively implemented and whether non-agricultural activities will enable the farmer to get by on this new source of income. Legal problems start even in the interpretation of the concept of innovations as priority actions in this support instrument. It may turn out that the farmer does not meet the new challenges and at the end of the program will remain without the possibility of farming and without any sources of income from non-agricultural activities. Such a threat can cause not only burdens on the state welfare, but also adversely affect the competitiveness of the whole economy.

A reliable assessment of the business plans submitted by the applicants should be postulated. The state should also provide the appropriate level of consultancy in the scope of planned investments and identify potential hazards and risks, taking into account the characteristics and qualifications of the farmer. The appropriate assessment of the intended projects at the stage of design will make it possible to avoid subsequent bankruptcies for people who benefit from bonuses for starting a non-agricultural company and do not achieve their financial effect.

The financial instrument for Polish agriculture which is connected with high hopes due to the agricultural structure is the submeasure Restructuring small farms. In accordance with the wording of the RDP "aid is granted for the restructuring of farms in the production of food or non-food agricultural products, as well as the preparation for sale of agricultural products produced on the farm. Restructuring means fundamental changes in the farm, which are intended to improve its competitiveness and increase its profitability through an increase in economic size, in particular as a result of changes in the profile of their agricultural production²⁸". This means not only incentive to specialize in agricultural production but also the search for new production solutions which should raise the level of profitability of farms and thus contribute to improving competitiveness.

Aid may be received by a farmer who conducts agricultural activities on the territory of the Republic of Poland for commercial purposes; he is an independent or dependent owner of a farm within the meaning of the Civil Code, with an agricultural area at least 1 ha or property used to conduct production in the field of special agricultural production within the meaning of the regulations on social insurance for farmers; he has a farm with an economic size of less than 10 thousand EUR; he submits a business plan for the restructuring of the farm. As in previous aid instruments, one of the key roles is played by the business plan, which is the axis of restructuring such a small farm.

It is assumed that as a result of implementing a business plan, there should be an increase in economic size to at least 10 thousand EUR, while the increase must be at least 20% of the initial value. Achieving such growth can be a problem given

²⁸ PROW 2014–2020, p. 233.

the current economic and political factors independent of the farmer. There is also the problem of the criteria of measurability of this growth, seen in the RDP²⁹.

The preferred criteria for the selection of entities to which aid will be directed is the type of planned production (e.g. organic production), economic size of the farm, the impact of the implementation of cross-cutting objectives, the complexity of the business plan, processing of agricultural products produced on the farm, participation in organized forms of cooperation of agricultural producers, professional qualifications of the farmer. The amount of the support possible to be obtained is 60,000 PLN. This amount may be a threat to the successful implementation of the entire operation. It may be simply too low in view of the purchase of expensive and specialized equipment required e.g. for processing products produced on the farm.

The amount of support can reduce not only the interest in this action, but also destroy any implemented business plans. It seems that for their rational implementation, an average farmer will need larger amounts. In this regard, various assistance possibilities from the state arise, like loans at preferential rates, providing technical, legal, accounting assistance.

The above analysis of selected legal measures affecting the competitiveness of Polish agriculture in the coming years allows for a moderate assessment of the planned activities. The current stage of issuing executive regulations and carrying out the recruitment requires intensive work on the possible correcting of some problematic issues indicated above. It is also a time that will allow both to make initial assessments, as well as medium-term assessments of effectiveness of the granted assistance.

The importance of legal aid should be noted, which the farmers should receive from specialized entities. The complicated system of Polish agricultural law, and in particular European agricultural law has a significant impact on the competitiveness of Polish agriculture. This process can be affected by the lack of knowledge about the rights and obligations of the potential beneficiaries of assistance. A farmer who does not have knowledge about existing procedures and responsibilities that is associated with the obtained support could lose more than gain from the received assistance.

It is worth to rethink individual actions and sub-actions identified in the RDP in terms of their effectiveness in improving the competitiveness of Polish farmers. We propose that along with this program national support measures are developed

²⁹ RDP 2014–2020, p. 235: “Difficulties in the confirmation of the economic size of the farm in the case of field crops in the absence of the possibility of a detailed verification of the type and area of declared crops, due to further simplifications of the rules for granting area payments. Difficulties in carrying out inspection activities for all farms for which an application for aid was submitted, in particular when the application deadline will prevent the confirmation of the structure of crops on the given farm in the time required to handle the application”.

regarding the preparation of applications, or getting help in the possession of own contribution (of course while maintaining the rules relating to state aid and de minimis help), e.g. for organizing the farm by a young farmer. Such actions can significantly help Polish farmers to compete with farmers from other EU countries. This will also help in the long run to build a national agricultural policy and legal instruments that can help in its implementation. Due to the uncertainty of directions of future reforms of the CAP it can be a legitimate move, which will prepare the Polish agricultural administration to function in conditions of much lower or non-existent agricultural support from European funds. Such a scenario should be considered also today, four years before the end of the current financial perspective. In this context, the problem will arise whether farmers who currently benefit from assistance funds will be able to keep their machines, modernized farms, acquired know-how, in the absence of lack of financial assistance from outside. The strength of the competitiveness of the Polish agricultural sector will perhaps be known at that time.

The analysis includes only some legal instruments that in the assumptions are intended to improve the competitiveness of Polish agriculture. The conducted analyses do not include a very important element of conducting agricultural business in harmony with environmental protection indicated e.g. In cross-compliance principles³⁰.

The presented selected regulations were related to these activities, from which farmers can obtain the highest level of funding. All other possible "funding streams" of Polish agriculture should be also analysed and all regulations harmonized, both concerning European aid, as well as other aspects of the farmer activity. Only then the farmer, who will be able to take care of running his farm, and not exploring further meanders of law will be able to increase the competitiveness of Polish agriculture. This challenge must be taken today, because probably the current financial perspective will be the last with this scale of measures allocated to the agricultural sector in the European Union budget. This opportunity cannot be missed.

³⁰ A. Niewiadomski, *Europejska Sieć Ekologiczna Natura 2000...*, p. 293–304; B. Jeżyńska, *Proekologiczne instrumenty...*, p. 251–264.

SELECTED REGULATIONS OF THE COMMON AGRICULTURAL POLICY AFFECTING THE COMPETITIVENESS OF POLISH AGRICULTURE IN THE NEW FINANCIAL PERSPECTIVE

Summary

The article presents selected legal problems in the scope of rural development policy, which affect the competitiveness of the agricultural sector in Poland. Selected submeasures identified in the Rural Development Programme 2014–2020 were subjected to legal analysis in terms of rationality and possible efficiency of the adopted assumptions. Potential dysfunctions were indicated and proposals according to the intended law were contained.

There has also been an attempt to assess the functioning of the Common Agricultural Policy as a mechanism for improving the competitiveness of the individual farms, as well as the entire agricultural sector.

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KEYWORDS

RDP, common agricultural policy, agricultural law

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Program Rozwoju Obszarów Wiejskich, wspólna polityka rolna, prawo rolne