

AGRICULTURAL PUBLIC PROPERTY UNDER THE IMPACT OF POSTCOMMUNIST REFORMATORY PROCESSES

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Abstract

As a result of de-collectivization and privatization, including the development of new holdings, based on private property, the dimension of types and shapes of property suffered some changes, as well as their evolvement in agricultural development. Nowadays, in the Romanian agriculture there are holdings based on private or mainly private property and holdings based on public or mainly public property.

The defining cause of the current structural situation is represented by the evolution of public and private property relationship, during the post-communist period, evolution based on a confusing and incomplete legal framework, initially represented by the law of the land and its many related laws, which negatively influenced the formation and consolidation of new agricultural structures based on private property. The purpose of this study is to analyze the evolution of the relationship between public and private property in the post-communist period.

Key words: public property; private property; land fund; farm land.

INTRODUCTION

As a result of de-collectivization and privatization, including the development of new holdings, based on private property, the dimension of types and shapes of property suffered some changes, as well as their evolvement in agricultural development. Nowadays, in the Romanian agriculture there are holdings based on private or mainly private property and holdings based on public or mainly public property.

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Public property. Main characteristics. Content and dimension

Public property represents the property right that belongs to the state or to an administrative unit on assets which by their nature or by law, are of public interest or use, provided that they are gained on ways provided by law.

State-owned lands that remained after the restitution claims were satisfied, fall into two distinct categories: (Chelaru, 2005) – the public domain and the private domain of the state.

Public domain refers to public property which expresses ownership - possession, provision, use - on goods which by their nature, are designed to meet utility or public interest².

Private sector is composed of assets (other than the ones of public domain) against which is exercised the right of state private property and their management is assigned to companies, providers of public utilities and local administrative units.

The Agency for the State's Domains (ADS) is the specialized agency conducting the privatization of agricultural companies (formed in accordance with Law no. 15/1990) and the lease of the agricultural land, public or private property, to be managed by these companies. ADS was founded by Law no. 268/2001, as an institution of public interest, of financial and commercial nature, under the subordination of the Ministry of Agriculture and Rural Development. Currently, the ADS has under administration 340439,36 ha, of which: 172753,87 ha public domain, and 167685,49 in the private domain of the state.

The main attributions of the Agency are:

- Exercises, in behalf of the state, the prerogatives of agricultural land ownership, belonging to the private domain of the state;
- The management and effective exploitation of state assets, whose mandated owner it is, as well as privatization of the companies mentioned in art. 1 and 2 of Law 268/2001;
- The management of agricultural land belonging to the state public and private domains, in the service of national societies, research and agricultural production institutes and of agricultural and forestry education units;
- The leasing or renting of agricultural land belonging to public or private domain of the state, in the service of national companies, research and agricultural production institutes and of agricultural and forestry education units;
- The merging of agricultural lands, on behalf of the state, from public or private domains of the state, regarding their leasing or renting, in order to develop family type holdings.

In 2000, ADS has taken over in its heritage a land area of 1,463,556 ha, of which:

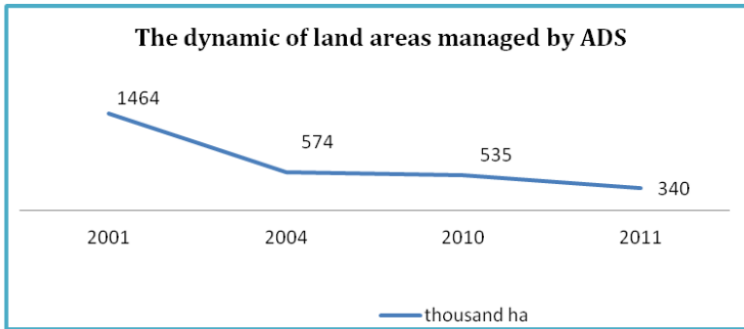
- 1.325.995 ha agricultural land, structured as follows: 1.077.780 ha arable land,

² Law no. 213/1998 on public property and its legal status. M.O. nr.448/24 mart.1998, art. 1,2 and 3

- 128.957 ha pasture, 28.886 ha hay field, 42.732 ha vineyard, 47.640 orchard;
- 40.000 ha water surface;
- 97.561 ha non-agricultural land.

The evolution of lands managed by ADS, since its establishment, until 2011, is shown in the following chart.

Fig. 1



Source: Agency of the State Domains, www.domeniilestatului.ro, accessed 25.08.201

After the inventory, ADS had to hand over some of the agricultural land to the local commissions, regarding the reconstruction of property rights to the entitled persons, according to Law No.1/2000, and some forest lands to the National Forest, for the same purpose. Thus, the ADS handed over an area of 675 thousand ha to the local committees (town halls) for the restoration of property rights, while for another surface of 105.5 thousand ha is in litigation with various local committees.

One of the priority objectives of the Agency was the leasing of agricultural land from the private domain of the state. As a temporary solution to ensure the efficient exploitation of the agricultural land surfaces until the concession, ADS signed lease or joint venture contracts with various individuals or legal persons.

The dynamics of the relationship between public property and private property

The total, or near total, reduction of control and, respectively, of state property on its assets, and especially on the agricultural land, was the key issue of the agrarian policy concerning the reforming of the agriculture private domain, after the transition to free market economy.

The main change, concordant with the transition to a market economy, consists in the extension of private property and the restriction of the public and private property of the state, which constitutes the content of the private and, respectively, public sectors from agriculture.

Private property has become dominant, regarding both the input and the output achieved. Currently, the private property represents over 95% from agricultural area of the country and 96% of the arable one.

Table 1 - The evolution of the relationship between public and private property

	Total agricultural area (thousand ha)	Of which: private ³		Of which: public	
		Thousand ha	%	Thousand ha	%
1991	14798,3	10324,8	69	4473,5	31
1993	14793,1	10336,4	70	4456,7	30
1995	14797,2	10693,9	73	4103,3	27
1997	14794,0	10430,7	71	4363,3	29
1999	14730,7	11432,6	78	3298,1	22
2001	14852,3	14310,0	96	542,3	4
2003	14717,4	14156,0	96	561,4	4
2005	14741,2	14087,1	96	654,1	4
2007	14709,3	13998,9	95	710,4	5

Source: Statistic Yearbook of Romania 2009, own calculations

Between 1991-2000, the public property/private property report developed under Law 18/1991, when the following phenomena can be distinctly noticed:

- Private property has two defining segments:
 - a) Peasant households from the non - cooperative areas, holding a share of about 8% of the country’s surface
 - b) agricultural cooperatives of production that had in use about 62% of the country’s surface.

Summed up, the two lead to a total rate of about 70%, as confirmed by the official statistical data (table 1).

- The state property had two sources of constitution:
 - a) first, of public nature, consisting of land belonging to the agricultural research, main irrigation canals, to some central government institutes, as well as lands occupied by pastures and grazing lands.
 - b) the second source consists in land occupied by former IAS, about 1.6 million ha. This last category of land, took, in the next period, in accordance with Law 1 / 2000, the road of privatization - to former owners or was assigned by lease to major industrial farms. The last category entered in the management of the Agency of State Domains.

Together, the two sources of state property lead to 30% of the total agricultural area of the country. Along with the application of Law 1 / 2000, a second category of defining mutations regarding the public property / private property report arises. Related to these mutations, we make the following comment: private property rises from 70% to 95%, matter which supports a thorough analysis, because the data, as they appear in official documents, in our opinion, doesn’t have the appropriate legislative support.

3 Includes: private property of the state, of territorial-administrative units, of legal and natural persons.

Public property, at the threshold of 1997, in a synthetic approach, had the following structure:

Total, of which:	4,4 mil. ha
Communal pastures and meadows	2,2 mil. ha
Former IAS lands	1,6 mil. ha
Lands for agricultural research, main irrigation canals and others	0,6 mil. ha

The communal pastures, of about 2.2 million ha, represented the category of usage that was legally framed, at the moment of their constitutions, after the agrarian reform of 1921, as public domain of local interest. Such a legal qualification protects this category of use of any interference on the regime of property or use.

At the moment of communal pastures establishment, the legislator from that time (1921) considered appropriate to introduce them, from the juridical point of view, as category of usage belonging to the domain of local interest, with the desire of, as we mentioned above, protecting them from any interference, but also from the desire of putting them to the benefit of the entire rural communities, as a form of support from the public power, for the peasant households, with the intention of increasing the livestock, referring especially to large and small herbivores.

Also on communal pastures property regime, we mention that during the communist period, they were framed on state property and not on the cooperative one, which gave it a high degree of protection, in what property rights are concerned but also over the manner in which they were to be used.

A third important moment was in 1991, when according to the land law, the land occupied by communal pastures was recognized as public domain of local interest, with all the advantages deriving from this over the property regime.

CONCLUSIONS

In 2001, when the communal pastures, in statistical terms, were removed from public property and passed as private property, that moment became scientifically inexplicable and unsustainable by law, which in terms of agrarian policy, may be counterproductive, in time.

It is counterproductive, because it leaves the public or private decision over the property regime interferes, as well as over their usage manner, which over time weakens the supporting basis of peasant households' production, with reference to the livestock sector.

Currently, the public property regime still maintains more than 300 000 hectares, lands to which law assigns scientific research, scholar farms, or agricultural lands belonging to other public institutions of national interest.

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