

ASPECTS ON THE SUCCESSION IN THE TIME OF AGRICULTURAL LEGAL REGULATIONS

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Abstract: *In the process of development of the Romanian society, agriculture has always been a basic branch of material production, having as object the cultivation of cereals, of technical plants, of fruit growing, of horticulture and of viticulture correlated with the breeding of birds and animals in order to obtain the raw materials and agri-food products in order to develop their processing industry. In order to be able to reach such a development, the agricultural field has undergone a series of stages during its development, related primarily to its legislative regulation. This paper discusses the legislative history of this field, starting with the first written legislation.*

Key words: *agriculture, agrarian legislation, land fund, property rights*

INTRODUCTION

Following and studying the historical accounts in the temporal evolution of the society, and of humanity in general, we can say with conviction that agriculture was the main and most important activity of the Romanian people, being considered the basic occupation of the people and as such the most important source of living.

The socio-political-economic events that took place starting with the medieval period and continuing with the period of Romanian rebirth, then with the war of independence, the kingdom, the first and second war, communism and the period after the fall of communism, marked the Romanian society from all points of view. The measures, at least from a legal or legislative point of view, in the first stage carried the name of reforms, which later over time received the name of legislations. The most important agrarian reforms that took place in Romania took place in 1864, 1921, 1945, then 1991 - present. Of course, an important role in the adoption of the respective reforms had the social, political and economic reforms that have marked the Romanian society over time.

MATERIALS AND METHODS

The materials used in drafting this work consist in laws, websites, and specialized courses. The methods used are legal, namely the historical method, the comparative method, the logical and sociological method, the analytical method. The use of these methods had the role of performing a systematic analysis of the information from the sources studied in order to elaborate the points of view and the conclusions .

RESEARCH RESULTS

In order to be able to talk about the reforms in the agrarian field, certain aspects regarding the evolution in time of the property right must be reviewed, this being a direct consequence of both the economic, social and political evolution of the society, as well as the evolution of the legislation in the agricultural field.

In the Geto-Dacian period, the property right was divided into two categories - the collective property and the individual property. According to the writings of his time, Horatii space "*Dacians were known property of the congregation territorial obs tea which exert collective ownership over land intertwined with individual use*". Referring to private

property, Dacians exercised in material of goods only what concerns the operating mines, and cattle and slaves, noting that ownership of gold mines belonged to King. [6]

In the Dacian-Roman period the property right knows three distinct forms, namely:

1. the *quitara* property , 2. the *provincial* property and 3. the *pilgrim* property. [6]

1. Regarding the property of the quitara , the Romanian citizens living in the territory of Dacia were the only ones who had the law of such property , because it could be exercised only on the Romanian works, based on the fiction *ius italicum* (honor granted to certain cities that were under Roman domination and was granted by the Emperor). Through it, it is granted to the communities outside Italy the legal fiction that the Italian land benefits, being governed by the Romanian laws, having a greater degree of autonomy in the relations with the provincial governors [7]. Those who had the status of citizens of Rome could sell and buy land, were exempt from land tax and voting tax and were entitled to the protection provided by Roman law [2]. This type of guitar property was of four types: on land , on slaves, on big cattle and on small cattle. The first forms of guitar ownership were on cattle and slaves , extending also on land.

2. Regarding the provincial property, it appeared as a result of applying the legal regime on the new territories conquered by Romanians. After the conquest, the territories were passed into *ager publicus* (the Latin name of the lands that were the property of the Romanian state, lands derived from the conquered territories), being assigned to the use of evidence. The Romans designated this use by the phrase *possessio vel usufructus* - usufruct / possession. Provinciales had the possibility to dispose of those lands by means of acts between the living - *inter vivos* and by acts for the death - *mortis causa*, because the provincial benefits from the fiction that he is a Romanian citizen. This type of property could also be acquired through a variant of the Romanian usucapion, known in Dacia Traiana under the name of *prescriptio largi temporis* according to which the provincial recognized the supreme property of the Romanian state over the land by the annual payment of a sum of money called *tributum or stipendium* .

3. Regarding the pilgrim property, it is exercised only on construction and the movable and only the peregrinilor. It was considered a form of special property, it was granted only to them because they were the main trading partners of the Romanians.

In the period between the IV-VIII centuries in the form of used property was through the devaluing property on the estate of the hamlets and the individual property on the lands with agricultural destination.

In feudalism period existed in parallel several forms of property, namely: ownership feudal-princely boyar and monastery or church. Property of the Church was composed mostly of private donations and from the royal donations. The Bohemian property was individual, which could be acquired through sale-purchase, exchanges, donations, wills and by donations made by you conditioned by the fulfillment of the famous obligations of vassalage made by the Lord. [4]

During Turkish Phanariot regime at half health the eighteenth century, when the first legal regulations were written, such as the church rites, secular rites, The Romanian Book of learning the teachings and straightening the law, but they did not bring major changes and important property rights. Only at the end of the eighteenth century and at the beginning of the nineteenth century the main legal inscriptions appeared: Pavliniceasca Condicta of AIIpsilanti in 1780, Andronache Donici's Code in 1814, Calimach Code in 1817, Caragea Law in 1818. All these regulations had European legal inspiration. At that time, the right to property was recognized as absolute. Also during this period, the Phanariot rulers try to abolish the ancient property rights of the peasants and the boyars, offering to the gentlemen, and in his *virtue, dominum eminens* (supreme property right that the lord (ruler) had and which he exercises over the whole territory. of the

country, as the supreme of the feudal hierarchy), the prerogative that was recognized in the Law of the country. [15]

In between the years 1831-1832 there were two Organic Regulations, which refers to the rights of sacred property where the lord was the owner and peasant was working. However, the writings of that time considered it an absolute limitation of the property owner's right to his land because he had one-third of the land or motion, and the remaining two-thirds were given the right to use the wounds that worked the respective lands. [3]

The innovations on the regulation of ownership occurred during the reign of Alexandru Ioan Cuza, by adopting the Civil Code of 1864, which came into force in 1865, where the TITLE II "About property", it is defined as the right of that someone has to enjoy and have a job exclusively and absolutely, but within the limits determined by law. No one can be forced to give up his property, except for the sake of public utility and receiving a right and prior compensation. The property of a movable or immovable thing gave right to everything that produces things and aspired to everything that came together, as an accessory, with the work, in a natural or artificial way. This right was called: right of accession. The provisions of the aforementioned articles have regulated the land, industrial and commercial property. [8]

The notion of property law comprises two meanings, one objective and one subjective. The objective meaning refers to the totality of the legal norms that regulate the distribution of the goods between persons. The subjective sense refers to the possibility of a person to own a good / goods in his own interest and on his own power. [16]

The most important agrarian reforms that took place in Romania were: the agrarian reform from 1864, from 1921, from 1945 and from 1991 to 2000.

The agrarian reform of 1864

Through it the peasants were improperly owned, so that the measure of 2/3 of the estate given to them in use through the Organic Regulations, they became their property without being obliged to divest.

By this normative act, the clandestine peasants were released from the obligations towards the boyars and were improperly owned by the land. The agrarian Law was promulgated on 14/25 August 1864 and have entered into force on April 23 Elijah/May 5, 1865 under the reign of Alexandru Ioan Cuza who proclaimed by a decree, the cancellation of the group work "*forever*" and the peasants that "*today you are free owners of your places*". This legislation, called the "*Law of Registry property of the rural*", peasants were freed and burdens such as crack, *dijma* or *podveziile*, monopolies being abolished inside villages and were given land category according to the number of cattle held. Peasants are given the opportunity to redeem the land and to pay annually a certain amount for 15 years. The law also established the payment of compensation as three owners. The expropriated lands could not exceed 2/3 of the estate and could not be held for 30 years except for the commune or another to hold. [1,9,17]

The land reform from 1921

Late nineteenth century and the early twentieth century marked our country by the appearance of moving countries social lider, which eventually led to the rational school in the year 1907, at which time, the agriculture was the main occupation of the rural area, and in relation to the size of the land area held, the owners belonged to different social categories [5]. At the beginning of the 20th century the lease appears. After its introduction, approximately 336,000 ha of agricultural land were leased, and those who

took the land for lease were also in the species of plains, then part of the land they produced to sell and finally the peasants who needed to lease them to support the family.

The agrarian law of July 30, 1921 was intended to try to create stability in terms of legal regulation of property. She covered the legal framework for expropriation and allotment setting with Executive who is expropriated, under what conditions is expropriated, the method of determining damages them and whether it is total or partial expropriation of . The bodies for applying the expropriation were the Agrarian Committee, the County Commission for Expropriation and the Bypass Commission for Expropriation.[11]

The agrarian committee was the consulted body of the ministry of agriculture and in all matters regarding expropriation, improper ownership, establishment of medium properties and use of the expropriated land in the interim period.

County comission of expropriation could be one or more for each county and consists of 5 members - an adviser to the Court of Appeal appointed by the Ministry of Justice as chairman or without a tribunal judge appointed by pres President of the court, a the second judge also appointed by the president of the court, a delegate from the Central House of Property, the county agricultural counselor and a geodesic engineer. Besides each county commission you work as a secretary.

The detention commission for expropriation was one for each constituency of the detention court, and is composed of 4 members: the detention judge as president, a delegate from the Central House of Property, the regional agronomist and a geometric engineer.

The agrarian reform from 1945

In order to carry out the agrarian reform on March 23, 1945, Law no. 187 published in the Official Gazette no. 68 bis of 23.03.1945.

The purpose of this Law was to:

- enlargement of the arable areas of the existing peasant farms, which have less than 5 ha
- creating new individual peasants` households for those who have no land
- establishment by approaching cities and industrial settlements, of vegetable seeds for the supply of their workers , officials and craftsmen
- not to reserve land for agricultural schools and experimental farms model in order to raise the level and agricultural crops, the production of selected seeds, the raising of cattle and the creation and development of the agricultural industry, lands that will be under the administration of the State. [12]

In order to achieve land reform, they go out the country to be divided ploughmen entitled and the allotment and the reserve mentioned above , after following agricultural goods with the inventory and affected their lands and properties, any belonging to German citizens and Romanian citizens , natural or legal persons, of German nationality, who cooperated with Hitler's Germany; lands and other property of war criminals and of those who were guilty and disaster the country; the lands who took refuge in countries with which Romania is in a state of war or took refuge in foreign father is after 23 August 1944 the land and all equipment of absentee building; the estates of those who for the last seven consecutive years have not cultivated their land and in their own direction, with the exception of lots up to 10 ha; the agricultural goods any citizens of Roma who have them in writing and volunteers to fight against United Nations; dead hand goods; Risos land farming in the ownership and of them individuals who exceed the area of 50 ha , referring to farmland, orchards, hay fields, pools them and the artificial ponds, whether used or not fisheries, wetlands and the wetlands.

The constructions, mansions, *armanele*, roads, orchards and enhance any work in land, with all their facilities, and included in the 50 ha, the owner was d he right to choose where quota reserved for him where he wants, but in one place.

It is considered as the only agricultural property:

- the agricultural samples belonging to the same owner, located in different parts of the country;

- for the husband and wife 's agricultural lands . In case the spouses have separate property of husband, inherited or received as dowry before and after marriage and proven acts, remains to the wife 10 hours of, latitude of the spouses as the reserve quotas bind them in one or both properties, after their good wishes

- for the agricultural property of parents and minor children

- the agricultural properties that are also in co-ownership

Tractors, batozels, locomobils, harvesters and combines on agricultural goods pass in state ownership and created centers county agricultural machines available for rent has farmers them. Other agricultural tools and draft animals action have passed ut owned state proportion to the area of the agricultural land was expropriated and has been given peasants given land.

The law provided and certain *exceptions to expropriation*. [12] Thus, they were exempted from expropriation and left also in the property of the current owners: ex-settlements, agricultural assets belonging to the hand of news, metropolises, bishops, churches, parishes and places of church minds, the goods of the Crown Dom, the Ephorus and the Hospital settlements, as well as those of the Romanian Academy, the School House and the other cultural establishments, of the composers of the villages, of the suburbs, of the obstacles and of the cooperatives of the village, as well as the fanets and pastures belonging to the communes and in general all the goods are part of the State patrimony.

Through the expropriation procedure and the impropriety of the laughter, the mayors of the rural communes were obliged that within 10 days from the publication of this law in the Official Monitor to meet in general meeting all the peasants plowing in the respective commune, without land or who have up to 5 ha, land owned, for the election of the local committee of ownership, composed of 7-15 members. Election result was scored and in a report signed by all present and.

In order to co-operation with state bodies, for the achievements of land reform, they have created commissions of place to coordinate the work of land reform and the order to decide on disputes between villages and communities, and between owners and those entitled and the allotment, disputes taking nose you are the implementation of agrarian reform. Net commissions were composed of delegated members and local committees, each committee as sending you two d elegance. The net Committees could admit entitled to the allotment to them from another place. The chairman of the commission for the agrarian reform was delegated by the Ministry of Agriculture and Domains. He could only be a magistrate or a lawyer.

Local joint committees were doing the tables of agricultural goods that were to be is expropriated, the tables were entitled to allotment and distribution of agricultural inventory in the past to the State as well as the tables villages without pastures.

At allotted had prevail the soldiers who were focused mobilized and all those who fought and against Nazi Germany. County Prefecture, following the conclusion of working their allotment, awarded the property and the municipalities for meadows, on consignments with which they are assigned. Their measure will be certified as by the organs of Ministry of Agriculture and Domains.

The land price for the property was equal to that of an average annual crop per hectare, counted as follows: in weight: 1,000 kg; in maize: 1200 kg. New allotment paid in

cash or in kind 10% of the purchase price, the rest of the purchase price of rare was paid and in installments spread over 10 years in stockings earth those put in and 20 years for the landless. In case of payment in cash, price site was the wheat on the domestic to liberate the date of March 1, 1945.

Those without land could receive from the prefecture, after resolutely take commission and net agrarian reform, deferred payment first installments for up to 3 years. In different cases it is the divided output estates has been front cut of until the date of entry into force of the law and , local allotment committee and drafted new paintings . The painting entitled to and was sent to the respective county prefecture, because once the Release area title deed, to make and registration of property and in the book was the commercial register them certifying the property. All the acts were exempt of any taxes, fees or stamps.

Agrarian reform since 1991

The agrarian reform of 1991 actually started in 1990 by the Decree-law no. 42 which regulates decollectivization. The normative act allowed the increase of the lots for personal / family use from 30 areas to 50 areas. [10]

In February 1991, the Law of the land fund no. 18/1991 came into force, being considered as a transitional law between the old (communist) system and the democratic system, regarding the legal regulation of property and land.

Today, the law is in force, in a republished form. Law is divided into ten chapters containing 123 articles and two annexes which sets tariffs given orat to remove permanently or temporarily aside land located outside the village and for the introduction of agricultural land in town and charges for the use of permanent forest land for purposes other than production logging and deforestation.

According to it , you grooves, regardless of destination, the title which are det owned or public or private properties they belong, constitution land of Romania. The following are considered agricultural lands: [13]

- productive agricultural land: arable, vineyards, orchards, Pepin bad wine, fruit, hops and mulberry, permanent greenhouses, tanning beds, seedbeds them
- the lands with forest vegetation, if they are not part of the forestry arrangements , the pastures
- lands occupied with buildings and installations Agribusiness, fishery arrangements and improve thin roads and farming technology, platforms and spat laid warehouse that serves as a product needs of agricultural
- productive lands ive and that can be arranged not fall NUMBER improvement to the perimeter of the used agricultural production.

On June 30, 1997 the Chamber of Deputies adopts Law 169/1997 for amending and completing the Law of the land fund no.18 / 1991, coming into force on November 4, 1997 by publishing it in the Official Gazette no. 299. Through this normative act, a series of articles of Law 18/1991 were modified and repealed.

On January 12, 2000, Law 1/2000 is published in the Official Gazette, which regulates the reconstitution of property rights on agricultural and forestry land [14]. The law allows natural and legal persons who have made requests for the reconstitution of the right of ownership for agricultural land and for forest land, and in legal term, to have the right of property restored , if they fulfill certain conditions stipulated in this normative act . The law applies and the case restitution construct agricultural land and forestry. The rights that were acquired by the persons based on Law 18/1991, and for which titles of property, property certificates or minutes of possession have been issued have remained valid even after the entry into force of Law 1/2000.

From the entry into force and until today, Law 1/2000 has been subject to modifications by other normative acts: GEO 102/2001 regarding the modification and completion of Law no. 1/2000 for the reconstruction of the property right on agricultural and forest lands, required according to the provisions of the Law of the land fund no. 18/1991 and of Law no. 169/1997, as well as amending and completing Law no. 18/1991, republished ; Law 247/2005 on property reform and Law 45/2018 on the reconstitution of property rights.

CONCLUSIONS

Evolution legislation land was influenced during both events social and political and that occurred in our country, and the necessity for an order of a legal nature to legalize the possibility of people to have land in order to provide a source of livelihood and came. Agriculture has always had a role is non-essential in society since ancient times, from the era of Dacia before being conquered by the Romans, going later in the period Dacia conquered, arriving later in the early medieval era and later to feudalism.

The common characteristics of these periods are evidenced by the agricultural activity of the population, this being the basic activity in the society of the time, but without the existence of a right of ownership of those who worked the land. Period of major changes has emerged with the adoption of land reform, namely in 1864, 1921 and 1945, which prefigured the consolidated the property health land.

Starting from the fundamental desire according to which the Romanian peasant wanted to be the owner of the land he works, the agrarian reform of 1864 tried to eliminate any form of subjugation that exists between the peasant and the owner, more precisely the removal of the estate, but the reform was not successful wanted due to both the peasant's backward state, as well as the economic and technical problems of the agricultural exploitation.

Track the reform is not a very helpful Romanian Peasant because he did not have the capital necessary to exploit the earth.

The agrarian reform of 1921 was an important pawn in the development of agriculture at national level because it marked the transition from the feudal property to the middle peasant farms thus increasing the interest of the peasants to exploit the land more and more intensely.

By the agrarian reform in 1945, the arable land of the peasant farms that had less than 5 ha was increased and the creation of new peasant farms for those peasants who did not have land at that time, thus increasing the number of agricultural holdings.

The 1989 revolution played an essential role in the wake of important changes at the legislative level regarding the legal regime of all that meant land ownership. These changes occurred with the adoption of Decree-Law 40 of 1990 and then by Law 18/1991 land, they came into being new types of farms known as individual households, family associations is , societies agricultural companies (Law 31/1990 on trading companies) and the kings of them autonomous . Also through Law 18/1991 were returned properties were set properties and agricultural cooperatives were dissolved existing production until 1990.

An important aspect of this law was that the regulations that provide property socialist of state and the cooperative one was replaced with private property.

Period has followed the adoption of ctelor regulations mentioned above and until today was one of scale , mainly due to the constant legislative changes.

REFERENCES

- [1]. **AXENCIUC V.**, 1996, Evoluția economiei României. Cercetări statistico-istorice, 1859-1917, București, pp. 17
- [2]. **GILDERSLEEVE LANNEAU B., MILLER CH. W. E., FRANK T., MERITT DEAN B., CHERNISS H. F., ROWELL THOMPSON H.**, 1895, American Journal of Philology, Johns Hopkins University Press., pp. 383
- [3]. **GUȚAN M.**, 2004, Istoria dreptului românesc, Ed. Universității Lucian Blaga, Sibiu, pp. 163
- [4]. **HANGA V.**, 1993, Istoria dreptului românesc. Drept cutumiar, Ed. Fundației Minerva, Iași, pp. 56-57
- [5]. **HITCHINS K.**, 1994, România 1866-1947, Ed. Humanitas, București, pp. 363-364
- [6]. **MOLCUȚ E., TOPÂRCEANU N.**, 2002, Istoria statului și dreptului românesc, Ed. Universității Titu Maiorescu, București, pp.18, 26, 27
- [7]. **POTTER D. S.**, 2014, The Roman Empire at Bay, AD 180–395, ISBN 978-1-134-69484-6, Routledge, pp. 65
- [8]. *****COD CIVIL** din 1865, art. 480-482
- [9]. *****DECRETUL DOMNESC** nr. 1.014 din 14 august 1864, publicat în: „Monitorul Oficial” nr. 181 din 15 august 1864
- [10]. *****DECRET-LEGE** nr.42 din 29 ianuarie 1990 privind unele măsuri pentru stimularea țărănimii, publicata în M.Of. nr. 17/30 ian. 1990
- [11]. *****LEGEA** din 30 iulie 1921 pentru reforma agrară din Transilvania, Banat, Crișana și Maramureș, publicata în M.Of. nr. 93/30 iul. 192
- [12]. *****LEGEA** nr.187 din 23 martie 1945 pentru înfăptuirea reformei agrare, publicata în M.Of. nr. 68/23 mar. 1945
- [13]. *****LEGEA** nr. 18 din 19 februarie 1991 a fondului funciar, republicată, publicata în Monitorul Oficial nr. 1 din 5 ianuarie 1998
- [14]. *****LEGEA** nr. 1 din 11 ianuarie 2000 pentru reconstituirea dreptului de proprietate asupra terenurilor agricole și celor forestiere, solicitate potrivit prevederilor Legii fondului funciar nr. 18/1991 și ale Legii nr. 169/1997, publicata în Monitorul Oficial nr. 8 din 12 ianuarie 2000
- [15].***<http://www.nos.iem.ro/bitstream/handle/123456789/1116/8-irlica%20Adela.pdf?sequence=1&isAllowed=y>, Adela Pirlica, Evolutia dreptului de proprietate, pp. 3
- [16]. ***<https://www.wattpad.com/9473010-dreptul-roman/page/32>
- [17]. *** <https://npissh.ro/ro/wp-content/uploads/sites/2/2015/12/aspecte-privind-aplicarea-legii-rurale-din-anul-1864.pdf>