

SUMMARY

THE LEGAL AND ECONOMIC ASPECTS OF ASSOCIATIONS OF AGRICULTURAL PRODUCERS IN SELECTED COUNTRIES OF THE WORLD

The book discusses the legal and economic aspects of associations of agricultural producers in selected countries in the world. Collaboration between agricultural producers is needed at different stages of farming, from purchasing the means of production, through the use of agricultural machinery, sale of crops and consultancy, to processing. Various forms of collaboration between agricultural producers exist in different countries in the world. It would seem that the development of agriculture and the economy requires discussion, with regard to different producer organisation structures and the challenges they face, associated with, for example, increasing the capacity of their holdings and producing more food of better quality. It is also essential to enhance the competitiveness of agricultural producers and to increase their income, as well as to create workplaces in rural areas. Alongside co-operatives set up by farmers, agricultural producer groups and organisations are also growing in significance, which is encouraged by the EU legislation. In the light of the EU Common Agricultural Policy legislation, producer organisations are obliged to contribute to the empowerment of farmers in the food supply chain, farm development and agricultural markets. However, it should be stressed that in the literature on the subject (for example the World Bank and the FAO) the term 'producer organisations' (POs) denotes a wider range of collective actions undertaken by farmers and does not only refer to those fulfilling the requirements of the EU Regulations.

The need for research is also justified by cognitive, social and economic aspects, as well as practical, legal and theoretical ones. Moreover, what the European Union needs currently to focus on is the implementation of the European Commission's "Farm to Fork" Strategy for a fair, healthy and environmentally friendly food

system (F2F) of 20 May 2020. The aim of the document is to bring about a holistic change in the approach to food production. The strategy underlines that the COVID-19 pandemic, the increasing incidence of droughts, floods, forest fires and new pests, are reminders that the food system is under threat and must become more sustainable and resilient.

The aim of this book is, firstly, to assess whether the legal regulations concerning agricultural producer associations in Argentina, France, Germany, Italy, Poland, Slovakia, Slovenia and Spain, as well as in other countries, encourage or hinder their collaboration; and secondly, to identify legal instruments that make it easier for organisations, cooperatives or other forms of association of agricultural producers to influence the development of farms and agriculture (agri-food management). The publication also tries to pinpoint the ways and directions of development of various forms of agricultural producer associations and to identify the factors affecting the process.

Chapter I (by Aneta Suchoń) is an introduction containing, among other things, an explanation of the title, a justification of the choice of research subject, the objectives of the book, the structure of the book, and the research methods.

Chapter II (by Aneta Suchoń) traces the genesis and development of legal regulations concerning the association of agricultural producers throughout the world, for example the USA, Germany, France, Italy, Netherland, Denmark and Poland. Cooperativeness in the US has a long history, since it was as early as in the XIXth century that the first co-operatives were created. Nevertheless, American cooperative law does not stem from a uniform legal act that regulates all aspects pertaining to the creation of co-operatives and the way they functioned in the country. From the very beginning, the regulations related to particular states. Cooperative law in the USA is a multifaceted and complex legislative area composed of both state and federal law. The book refers to some of those regulations. The beginnings of the cooperative movement in New Zealand, known for its milk co-operatives, are briefly discussed as well. Some of those milk cooperatives have been operating since the nineteenth century. In second chapter, the publication points out the impact of the European Union on the development of associations of agricultural producers. The EU legislation encourages agricultural producers to collaborate and build a stable organisational structure. First of all, there are regulations concerning agricultural markets, particularly milk and fruit and vegetables ones. The organisations connected with agricultural producer associations are mentioned as well, including the National Council of Farmer Co-operatives (NCFC) from the USA, COPA (Committee of Professional Agricultural Organisations), and the General Committee for Agricultural Co-operatives of the European Union (COGECA).

Chapter III to XII present the legal solutions for the associations of agricultural producers in Argentina, France, Germany, Italy, Poland, Slovakia, Slovenia and Spain. There is no doubt that the subject matter is very broad and, therefore,

only selected issues can be addressed. Considerations focus mainly on co-operatives, agricultural producer groups and agricultural producer organisations. The third chapter (by Alfredo Gustavo Diloreto) is devoted to Argentina and focuses on legal provisions regulating companies and cooperatives. It also briefly covers collaboration groups, transitory unions and consortia regulated in the Civil and Commercial Code dedicated to people from the same sector or activity that allows the acquisition of goods, the commercialization of production, or packaging of the products of its members. It emphasizes and points out various forms of collaboration on a contractual basis.

Chapter IV fourth (by Catherine Del Cont, Allison Macé) discusses producer associations in France, where the cooperative movement and other forms of collaboration among agricultural producers have a long history. Various issues are raised in the chapter, especially those relating to agricultural producer organisations, the contracts they make, and anti-trust regulations governing the collaboration among agricultural producers at the EU level. The chapter opens with a historical and legal background of the organisations. As indicated, the need to collaborate arose as early as in the nineteenth century and resulted from, among other things, the crises on the agricultural markets. Then, the legislation from the 1960s is referred to since it created the legal framework for the associations of agricultural producers, which was meant to strengthen their position in the area of processing and commerce. In the following years, the French legislation covered co-operatives, organisations and other forms of associations. The chapter discusses a variety of legal regulations, such as those included in the French Agricultural Code.

Chapter V (by José Martinez) and Chapter VI (by Christian Busse) describe associations of producers in Germany, where such entities are a popular. There are numerous agricultural co-operatives in this country and the fifth chapter provides an analysis of their activity and legal context. German co-operatives (Raiffeisengenossenschaften) have a long history and a significant influence on the functioning of farms, agricultural markets and the German economy. Der Deutsche Raiffeisenverband e.V (DRV), also plays an important role as an organisation associating German regional co-operatives. The chapter deals with cartel law and the issue of state aid. Reference is made to Article 101 of the Treaty on the Functioning of the European Union. There are also other forms, beside co-operatives, such as commercial companies or cooperation agreements used in agriculture. The issue of horizontal and vertical cooperation is also addressed.

Agricultural producer organisations are a vital element of the German economy, especially as they act as regional infrastructure stabilizers and central cooperative associations that can provide producers with security and stability. The activity of agricultural producer organisations in Germany involves a number of issues, which are widely discussed in the sixth chapter, entitled *Quo vadis agricul-*

tural organisation law? The chapter mentions for example the general concept of the law of recognized agricultural organisations, referring to EU and German law. The first German legal regulations allowing for the recognition and financial support of agricultural producer organisations appeared as early as the 1970s. The evolution of German law and the influence of EU legislation on German law and the practical functioning of these organisations are indicated. The German act on the structure of the agricultural market (AgrarMSG) is mentioned, which is a kind of implementing act to the EU law on agricultural market. It is emphasized that the European Commission sees agricultural organisations as a counterbalance to the liberalization of the EU agricultural market in recent decades. Instead of controlling the agricultural market through direct state intervention, agricultural producer organisations are now supposed to take over this function and, above all, it falls upon first-rate producers to control their own activity on the market. In addition, the chapter presents some interpretation problems associated with the EU regulations on agricultural producer organisations and issues connected with competition law. The chapter also discusses Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain.

Chapter VII (by Irene Canfora) is devoted to Italy. The author opens it by pointing out the European legal framework regulating associations of agricultural producers and she highlights the importance of those entities on agricultural markets and in the food supply chain. Further analyses center around Italian legislation, emphasizing the fact that it was as early as the end of the 1970s that legal provisions regulating producer organisations were adopted. The following years brought amendments to the regulations as a result of changes to the EU regulations. Enhancing marketing actions promoting agricultural producer organisations has hindered other legal ways producers are able to influence the agricultural market and, consequently, their ability to execute their other functions and activities.

Chapter VIII (by Aneta Suchoń) discusses Poland. The author starts by presenting some data showing fragmentation and a vast number of agricultural farms. Statistical data shows that agricultural producers and their farms constitute a small unit in Poland and, therefore, joint action is extremely important. Next, the author moves on to the legal aspects and discusses different legal types of associations of agricultural producers in Poland, and the challenges that go with them. First, the chapter presents dairy co-operatives, which have been developing since the inter-war period. It refers to the Act of 16 September 1982 on co-operative law and the regulations governing the milk market. Dairy co-operatives fit into the activity of agricultural co-operatives that encompass those operating in the agricultural sector, involved in at least one stage of such activities, or operating more broadly in the sector. The members of such a co-operative are mainly agricultural producers.

Next, the author refers to the new Polish Act of 4 October 2018 on farmers' co-operatives, which incentivizes Polish agricultural producers to collaborate. Then, the author mentions the groups and organisations of agricultural producers that can run their activity on the basis of, for instance, a co-operative or a company. The latter required reference to the Code of Commercial Companies and Partnerships. Additionally, the chapter presents the basic rules of cultivation contracts concluded by associations of agricultural producers as well as financial resources allocated to associations of agricultural producers. The author also shows other forms of associations of agricultural producers in Poland, referring to the Act of 8 October 1982 on social-professional farmers' organisations. That act stipulates that social-professional organisations of farmers are: machinery rings, agricultural industry associations, farmers' unions, unions of machinery rings and agricultural organisations, and unions of agricultural industry associations. More attention is given to associations of rural women, which are currently governed by the Act of 9 November 2018 on associations of rural women. What is important is that any agricultural producer may join an association of rural women, regardless of whether they are female or male. Associations of rural women represent the interests of rural women and their families, work toward the improvement of their social and professional situation, and support the comprehensive development of rural areas, also connected with agricultural activity.

Chapter IX (by Jarmila Lazíková) relates to Slovakia and discusses numerous issues connected with the establishment and the functioning of agricultural producer organisations in this country. The chapter lists the tasks of the organisations in question, including negotiations, brand marketing, the sale of agricultural products as well as their transport and storage. Then, it presents the procedures for setting up such entities, pointing out that the minimum criteria for recognizing them as organisations are specified by the Member States. In Slovakia, the criteria are very similar to those relating to the legal form of a co-operative. At the same time, the author indicates that no particular legal form is prescribed for producer organisations. Next, the chapter refers to funding the organisations with EU funds. In Slovakia, agricultural producers are not willing to be engaged in a producer organisation. The author shows both the legal and non-legal factors contributing to such a situation.

Chapter X (by Franci Avsec), stresses at the very beginning that farmer co-operatives in Slovenia have a long and rather turbulent history (beginning in the second half of the nineteenth century). He presents the historical and legal background relating to co-operatives in the country. Then, he points to a radical break up with the former co-operative movement after the Second World War. The present period (starting from 1991) began with Slovenian independence. In 1992, the present Slovenian Co-operatives Act was adopted. Its principles are outlined in the next part of the chapter (for example farmers' co-operatives in Slovenia managed

to keep significant and, in some cases, vast shares in the market for a few agricultural products, such as milk). The author also draws attention to the challenges that agricultural cooperatives face, for example further supply concentration and adjusting production to the market demand. The development requires adequate support of the agricultural policy, higher investments in training and informing members and employees, as well as actions designed to provide effective monitoring and control, including the audits tailored to the specific nature of cooperatives. The author also mentions groups of agricultural producers in Slovenia.

Chapter XI (by Trinidad Vázquez Ruano) refers to Spain. The author analyzes Spanish legal provisions regulating ways that agricultural producers associate and highlights their advantages and disadvantages. She shows that general support for the development of cooperativeness stems from the Constitution. There are three levels of regulating the subject in question: the EU level, the national level and the provincial level. As the author highlights, the Spanish agri-food complex represents one of the basic elements of the regional economy, with a direct impact on production and employment. A wide range of legislative tools have been designed to promote the integration of those entities. Current regulations (both at the national and regional levels) together with approved initiatives (e.g Act of 13/2013) have not made the situation better. It is necessary to make further changes, relating, among other things, to making co-operatives merge and creating more powerful entities with greater financial and business capacity.

Chapter XII (by Maria Zuba-Ciszewska) presents economic data on the development of cooperatives worldwide. The author shows that in 2017, among the 300 largest cooperatives in the world, there are entities coming from 27 countries. Having analyzed statistical data, she stresses that the role of Europe in the area of the largest cooperatives is decreasing in significance, while the regions in Asia as well as in the Pacific are growing in importance. Comparing the turnover, the author points out the fact that in the period of 2008-2017 the turnover of the 300 largest cooperatives in the world rose by almost a quarter to 2035.1 billion dollars. The largest part of this turnover (over 58%) is produced in Europe, but the increase since 2008 in this group of countries was the smallest (by 3.2%), compared to Asia-Pacific countries (by 82.2%) or the Americas (by 69.2%). The chapter also includes a comparison of economic productivity of the co-operatives in question, which is defined as the ratio of the generated revenues to the number of co-operatives in a given country. The highest average productivity of the entities in question is seen in Asia (8.8 billion dollars). The author compares the largest world's cooperatives in terms of the type of activity they run and analyzes the agricultural sector, showing that the biggest number of agricultural co-operatives can be found in the US and France and that they account for 27% and 45%, respectively, of the total number of the largest co-operatives

in those countries. Moreover, the author analyzes agricultural co-operatives in detail, their industries, turnover and productivity. The largest revenues are generated statistically by the largest agricultural cooperatives in Japan and Korea. The author notes that the differences in economic performance can also be seen across countries within the same industry (for example in dairy, meat or cereal cooperatives). At the end of the chapter, the author identifies the economic characteristics of agricultural cooperatives and their role in the cooperative sector in European countries.

Chapter XIII consists of final considerations and has been prepared by Aneta Suchoń, who is the editor of the book and the head of the project, as well as by other authors who have summarized the situation in their countries. The analyses show that there are various forms of associations, but co-operatives come first among the most common ones. They can be found in all continents (except Antarctica). The legal provisions regulating how to set them up and the way they operate are diversified, and there is a need to make further legislative changes in this area. Some countries have amended their legal regulations in recent years. For instance, a national act on cooperativeness has been enacted in Australia, serving as a basis for amending regulations in particular states. There have been some changes made to the regulations in China and Nepal. The development of cooperativeness is influenced by internal legislation. In Europe, new regulations have been introduced, for example in Poland. In addition, depending on the country, sometimes commercial companies, civil associations, civil law companies, and cooperation between farmers only on the basis of a civil law contract (for example consortia), are also popular between agricultural producers.

Cooperativeness also plays a part in creating groups and agricultural producer organisations, which are common in Europe and promoted by the European Union. The analyses and remarks of the grant participants give rise to the conclusion that agricultural producer associations are not developing within the EU in a uniform way, and calls for changes have started to emerge.

If the European Union supports and finances the activity of associations of agricultural producers (and rightly so), it might be necessary to adopt more extensive legal provisions in the EU legal acts regulating the setting up and functioning of such entities. The goal is to create lasting units which, having benefited from the EU funds, will engage in activity for many years. On the other hand, it seems necessary to make administrative simplifications, especially in the times of COVID-19. It might be said that as far as the EU law making process for the new budget window after the year 2021 is concerned, it is a good time for the EU legislator to have a closer look at agricultural producer associations.

In a global context, in order to make the most of the experiences gained by various countries relating to associations of agricultural producers, taking into account both regional and global approaches, it would be advisable to create a world

organisation to support agricultural producer associations. The entity could associate not only agricultural producers but also lawyers and economists dealing with the issues in question. The first stage could include an on-line platform enabling the mutual exchange of experiences, comments, and comparisons of legal regulations, and for identifying and handling problems. The conclusions drawn based on such collaboration could be beneficial to both domestic and EU legislators, for example, in drafting more effective legal regulations on agricultural producer associations.