

# EU AGRARIAN POLICY LEGAL FRAMEWORK AS A PART OF THE EU DEVELOPMENT PRACTICE

## PRÁVNÝ RÁMEC AGRÁRNEJ POLITIKY EÚ AKO SÚČASŤ EÚ ROZVOJOVEJ PRAXE

Tomáš MALATINEC \*

### I. Introduction

EU agrarian policy is one of the most extensive EU's policies. It plays a significant role in the EU goals achieving. The EU has supplemented national agrarian policies of the Member states by many innovative institutions. EU farm policy – the common agricultural policy (hereinafter CAP) – serves many purposes, inter alia productions of sufficient quantities of food, protection of environment and animal welfare, etc.<sup>(1)</sup>

Does it lead to development? Is this policy a part of the EU development practice? What is the role of law in goals achieving? The problem stems from the issue whether development practitioners take seriously “rules of the game”<sup>(2)</sup> and they are able to make a sense.

<sup>(1)</sup> EUROPEAN COMMISSION. 2015. Agriculture. 2015 [online]. [cit. 2015.12.07.] Available at: [http://europa.eu/pol/agr/index\\_en.htm](http://europa.eu/pol/agr/index_en.htm).

<sup>(2)</sup> WORLD BANK. 2006. Law, equity and development. In: The World Bank legal review, The World Bank Group, Volume 2, 604 p. ISBN 0-8213-6831-1.

The question is: does the agenda of agrarian policies participate in development law and development practice? Are there legal institutions introduced by the EU agrarian policy? Do they stimulate development? What is a direction of development?

### II. Concept of Development Law

Concept of development law is a phenomenon with a lack of cohesiveness in demarcation lines of the field. There are existing definitions of this concept in many contexts. Based on the Lee attitude presented in the paper Call for a New Analytical Model for Law and Development, leading idea consists in an approach of “scholars in law & development studying interactions among institutions, legal rules and development.”<sup>(3)</sup> We are able make a summary based

<sup>(3)</sup> LEE, S. 2015. Call for a new analytical model for law and development. In: Law and development review. Volume 8, Issue 1, p.

#### Abstract (EN)

EU agrarian policy is one of the most extensive policies of the EU. The aim of this paper is to analyse the EU agrarian policy legal framework from the point of view of law & development concept. Final remarks are based on an analysis of three topics: (1<sup>st</sup>) law & development concept, (2<sup>nd</sup>) agrarian policies and development, and (3<sup>rd</sup>) EU concept of development. Results show position of the EU agrarian policy legal framework in the EU development practice. The EU agrarian policy legal framework might be labelled as “law in development”. Several instruments have been implemented, but their impact on development is not unequivocal. There is no doubt about role of law in development as well as that the EU agricultural policy is core policy for development of the EU regions. Based on interconnections and justification we can argue that the EU agrarian policy legal framework is a substantial part of internal EU development concept and practice.

#### Abstrakt (SK)

Agrárna politika patrí k najrozsiahlejším politikám Európskej únie. Cieľom príspevku je analyzovať právny rámec agrárnej politiky EÚ z pohľadu konceptu práva a rozvoja. Zhrnutie príspevku je založené na analýze troch tém a to: (prvá) koncept práva a rozvoja, (druhá) agrárne politiky a rozvoj a (tretia) európsky koncept rozvoja. Výsledky poukazujú na pozíciu právneho rámca agrárnej politiky EÚ v rámci rozvojovej praxe EÚ. Právny rámec pre agrárnu politiku EÚ môže byť označovaný ako „právo v rozvoji“. Napriek tomu, že doteraz bolo implementovaných niekoľko nástrojov, ich dopad na rozvoj nie je jednoznačný. Na druhej strane však neexistujú pochybnosti o tom, že právo zohráva významnú úlohu pri rozvoji, rovnako ako o tom, že poľnohospodárska politika EÚ je základnou politikou pre rozvoj regiónov v EÚ. Na základe vzájomného prepojenia a zdôvodnenia možno argumentovať, že právny rámec agrárnej politiky je podstatnou súčasťou vnútorného konceptu a rozvojovej praxe EÚ.

#### Keywords (EN)

development law, agrarian policy, European Union, legal institutes

#### Kľúčové slová (SK)

rozvojové právo, agrárna politika, Európska únia, právne inštitúty

\* Technical University of Košice

on trends in scientific literature as well as on activities performed by organisations dealing with the issue of development & law. As Mota Prado argues in the paper What is Law & Development, there are two groups of views. One is “law in development” and second is “law as development”. Law in development is characterized by core role of law in achieving of development goals. “Law can serve as an instrument to promote development. Legislation can translate policy goals into action.”<sup>(4)</sup> Law as development is characterized by rule of law and quality of legal reforms. Legal and rule-based systems are constitutive of economic, social, and political life, or what might be more holistically understood as everyday human life. Such systems are therefore fundamental to the development process, with legal reform being a central element of broader processes of change.<sup>(5)</sup> “Law is silent partner in the development process.”<sup>(6)</sup>

If we consider law as an instrument for support of development as well as law as the rule of law promoted in the sense of development stimulation, there is potential for support of development at various levels (international, national, regional and local). Such a possible support is depending on respective international or domestic legal systems and distribution of legal power. Despite this potential, “comprehensive analytical framework assessing the impact of law on economic development is yet to be developed”.<sup>(7)</sup> In this place, it should be mentioned that the concept of development & law have moved a bit further, from the perspective of economic development to the perspective of changes from traditional to modern way of life.<sup>(8)</sup> After the mentioned words, definition of development should be introduced. We collide on issue of value chain in precise definition of development.<sup>(9)</sup> Development can be characterized from both quantitative and qualitative aspects. Changes or movement to the set goals should be evident. “Law is at the centre of development practice.”<sup>(10)</sup>

Delivery in development has acquired a central priority at

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<sup>(4)</sup> PRADO, M. 2010. What is law and development? In: *Revista argentina de teoria juridical*. 2010. Volume 11. [online]. [cit. 2015.12.07.] Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1907298](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907298).

<sup>(5)</sup> WORLD BANK. 2006. Law, equity and development. In: *The World Bank legal review*, The World Bank Group, Volume 2, 604 p. ISBN 0-8213-6831-1.

<sup>(6)</sup> HAGER, M. 1986. Training lawyers for development: eILDI experience. In: *Third world legal studies*. Volume 5, Article 6. [online]. [cit. 2015.12.08.] Available at: <http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1116&context=twls>.

<sup>(7)</sup> LEE, S. 2015. Call for a new analytical model for law and development. In: *Law and development review*. Volume 8, Issue 1, p. 1 - 68. ISSN 1943-3867.

<sup>(8)</sup> OHNESORGE, J. 2007. The rule of law. Univ. of Wisconsin Legal Studies Research Paper No. 1051. [online]. [cit. 2015.12.10.] Available at: <http://ssrn.com/abstract=1006093>.

<sup>(9)</sup> BUČEK, M. et al. 2010. *Regionálna ekonomia a politika*. EU: Bratislava, 2010. ISBN 978-80-8078-362-4.

<sup>(10)</sup> SANTOS, A. 2006. The World Bank's uses of the “rule of law” promise in economic development. In: *The new law and economic development: a critical appraisal* 253-300. 2006. [online]. [cit. 2015.12.07.] Available at: <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1915&context=facpub>.

both multilateral and national levels. Greater attention must be paid to policy intentions and its outcomes.<sup>(11)</sup>

### III. Objects and Methods

The object of this paper is to analyse the EU agrarian policy legal framework from the point of view of law & development concept. What is a position of the EU agrarian policy in the EU development practice? Final remarks are based on analysis of three topics: (1<sup>st</sup>) law & development concept, (2<sup>nd</sup>) agrarian policies and development, and (3<sup>rd</sup>) EU concept of development. The next step lead to connection of findings and adoption of final statement.

The resultant remarks are supported by analysis of scientific literature in respective fields and publications dealing with the issue of law & development, the EU concept of development and the EU agrarian policy (CAP).

Finding results are focused on interconnection and justification of the EU agrarian policy legal framework position in the EU development practice.

### IV. Agrarian Policy in Development Law

The reason why we are considering agrarian policy and its respective instruments as a part of development law concept is the fact that international and intergovernmental organisation dealing with development law and development practice have this field in their agenda. Legal framework of agrarian policies contributes to development both as “law in development” and “law as development”. This can be demonstrated by agenda of the International Development Law Organisation (IDLO). The organisation is devoted to promoting the rule of law, inter alia in the field of land rights above all in developing countries.

Agenda of agrarian policy is often affiliates to the sustainable development activities and tools. In this meaning, the United Nations (UN) has developed United Nations Development Programme where land protection is incorporated - Goal 15: Life on Land.<sup>(12)</sup>

The World Bank is also active in the field of law & development. It has defined wide range of topics and agrarian policy and its instruments is one of them.

Significant position of land is stemming from the fact that land is one of the production factors. Land and agrarian policy is linked or is a part of other development policies, e.g. policy of rural development. “Effective institutional frameworks are essential for promoting inclusive agricultural and economic growth and reducing rural poverty. Effective institutional frameworks and efficient rural organizations are

<sup>(11)</sup> CISSÉ, H. 2015. Improving delivery in development: the role of voice, social contract and accountability. In: *The World Bank legal review*, The World Bank Group, Volume 6, P. 3-8. ISBN 978-1-4648-0378-9.

<sup>(12)</sup> UNITED NATIONS. 2015. Promote sustainable development. 2015 United Nations. 2015. [online]. [cit. 2015.12.08.] Available at: <http://www.un.org/en/sections/what-we-do/promote-sustainable-development/index.html>.

critical for increasing agricultural productivity and profitability, and empowering small producers and family farmers.”<sup>(13)</sup>

Based on highlights contained in Agricultural Policy Monitoring and Evaluation 2015<sup>(14)</sup> several recommendations have been put forward. Law appears to be the most effective tool to transform goals into actions.

Depending on the direction of action, internal and external actions of agricultural policy can be identified. Agrarian policy challenges demand effective solutions and design of respective tools where law plays an important role.

## V. EU's Concept of Development

The EU development concept focuses rather on activities in developing countries and external activities than implementation of development institutions in the Member states within the respective EU policies. This attitude may be taken based on the thematic EU policy – Development and Cooperation. “Over half of all development aid comes from the EU and its members, making them collectively the world's largest aid donor. Most aid goes to low-income and least developed countries.”<sup>(15)</sup>

The EU is the world's largest development aid donor, providing more than 50% of assistance worldwide.<sup>(16)</sup> The European External Action Service is leading institutions in EU development activities in developing countries and world's regions. Covered agenda consist of various fields while institutes of agrarian policy are introduced in the sense of interdisciplinarity.

However, when law is considered as an instrument to promote development, specific legal institutions given by the EU to the Member states can represent very important elements in development. The EU has also designated European Year for Development in 2015. Main part of the development agenda is given to current problems of developing countries.

## VI. EU Agrarian Policy Legal Framework and Development Practice

“Agriculture is at a crossroads and in the headlines. EU agriculture and its Common Agricultural Policy (CAP) are no exception.”<sup>(17)</sup> Common Agricultural Policy (CAP) is one of

the most extensive EU policies. Agriculture is defined as a shared competence between the EU and the Member states. The Member states agrarian policies must comply with the EU agrarian legal framework and several innovative tools are introduced. Based on the CAP reform objectives – enhanced competitiveness, improved sustainability and greater effectiveness is a core of performed activities. CAP is related to the environment, food and countryside<sup>(18)</sup> and all of those fields are associated in land. Importance of the CAP can be derived from the European Commission statement “the future CAP should no longer be a policy that addresses the activity of a small, albeit essential, segment of the EU economy, but one that impacts on more than half of the EU territory and all EU consumers, and is of strategic importance for food security and safety, the environment, climate change and territorial balance.”<sup>(19)</sup>

EU agrarian legal framework can be considered as a part of “law in development”. EU has introduced new policy design with respective tools and institutions. Direct payments and pricing (price support) are among the most important institutes of support for agriculture. Several research studies have drawn conclusions on CAP instruments impact.<sup>(20)</sup>

The main goal is to support and promote agrarian producers as well as to strengthen rural regions focusing on agriculture. Within the EU program period 2014 – 2020 a set of the CAP goals has been established. “EU agriculture needs to attain higher levels of production of safe and quality food, while preserving the natural resources that agricultural productivity depends upon.”<sup>(21)</sup> One part of the EU agrarian policy legal framework is given to the relations with third countries in the field of import and export of agricultural products. In that way the EU agrarian policy is a part of development law concept regarding to external partners as well.

There is no clear consensus about evidence of positive and negative implications in concrete fields across all of the Member states. Legal design of the EU agrarian policy and its instruments did not support producers in the same way and strong criticism has appeared. Despite this fact, there is no doubt about role of law in progress. Following conceptual shifts of the CAP – from productivity through competitiveness to sustainability<sup>(22)</sup> – law is the most efficient tool for

policy-perspectives/impact-assessment/cap-towards-2020/report/full-text\_en.pdf.

<sup>(18)</sup> EUROPEAN COMMISSION. 2014. Agriculture. Luxembourg, 2014. 16 p. ISBN 978-92-79-41390-2.

<sup>(19)</sup> EUROPEAN COMMISSION. 2011. Impact assessment – Common agricultural policy towards 2020. Brussels, 2011. [online]. [cit. 2015.12.07.] Available at: [http://ec.europa.eu/agriculture/policy-perspectives/impact-assessment/cap-towards-2020/report/full-text\\_en.pdf](http://ec.europa.eu/agriculture/policy-perspectives/impact-assessment/cap-towards-2020/report/full-text_en.pdf),

<sup>(20)</sup> CIAIAN, P. – SWINNEN, J. 2006. Land market Imperfections and agricultural policy impacts in the new EU member states: a partial equilibrium analysis. In: American journal of agricultural economics, Oxford, 2006, Volume 88, Issue 4, p. 799-815. ISSN 1467-8276.

<sup>(21)</sup> EUROPEAN COMMISSION. 2014. Agriculture. Luxembourg, 2014. 16 p. ISBN 978-92-79-41390-2.

<sup>(22)</sup> EUROPEAN COMMISSION. 2011. Impact assessment – Common agricultural policy towards 2020. Brussels, 2011. [online]. [cit. 2015.12.07.] Available at: <http://ec.europa.eu/agriculture/>

<sup>(13)</sup> FAO UN, 2015. Themes of FAO. 2015. [online]. [cit. 2015.12.10.] Available at: <http://www.fao.org/themes/en/>.

<sup>(14)</sup> OECD, 2015. Agricultural policy monitoring and evaluation 2015. Paris, 2015. ISBN 978-92-64-234550.

<sup>(15)</sup> EUROPEAN COMMISSION. 2015. Agriculture. 2015 [online]. [cit. 2015.12.07.] Available at: [http://europa.eu/pol/agr/index\\_en.htm](http://europa.eu/pol/agr/index_en.htm).

<sup>(16)</sup> EUROPEAN EXTERNAL ACTION SERVICE. 2015. Foreign affairs and policy areas. 2015. [online]. [cit. 2015.12.08.] Available at: [http://eeas.europa.eu/policies/index\\_en.htm](http://eeas.europa.eu/policies/index_en.htm).

<sup>(17)</sup> EUROPEAN COMMISSION. 2011. Impact assessment – Common agricultural policy towards 2020. Brussels, 2011. [online]. [cit. 2015.12.07.] Available at: <http://ec.europa.eu/agriculture/>

goals achieving but the process is determined by many other factors, such as policy design, rules acceptance by producers, control mechanisms, cultural background, etc.

## VII. Conclusions

The EU agrarian policy legal framework plays a significant role in development of agricultural sector across the EU Member states. Importance of this EU policy is declared in the official EU institutions statements and strategic plans. Also international institutions have their focus on agricultural issues. The EU agrarian policy is the part of the EU development concept as well, but only marginally. Based on it we can say that it is a part of the EU development practice, but we need to draw attention to the EU internal development activities. This position of the EU agrarian policy can be derived from the law & development concept, where law is considered as an instrument supporting transfer of given goals into the actions. Therefore, legal framework and policy design affect results of policy implementation. There is the conceptual shift in the CAP and law will serve as effective tool for achieving of target points. Today it can be said, that the results of the EU interventions in the field of agriculture are very different within the EU regions. The EU has implemented several innovative policy instruments and that is why the EU agrarian policy legal framework might be labelled as "law in development". Implemented instruments have to promote development of agricultural sector. Although the EU is focused on developing countries in their development practice and thematic policy of development and cooperation, based on above mentioned findings we can argue that the EU agrarian policy legal framework is a substantial part of the internal EU development concept and practice.

## References

1. BUČEK, M. et al. 2010. Regionálna ekonomia a politika. EU: Bratislava, 2010. ISBN 978-80-8078-362-4.
2. CIAIAN, P. - SWINNEN, J. 2006. Land market Imperfections and agricultural policy impacts in the new EU member states: a partial equilibrium analysis. In: American journal of agricultural economics, Oxford, 2006, Volume 88, Issue 4, p. 799-815. ISSN 1467-8276.
3. CISSÉ, H. 2015. Improving delivery in development: the role of voice, social contract and accountability. In: The World Bank legal review, The World Bank Group, Volume 6, P. 3-8. ISBN 978-1-4648-0378-9.
4. EUROPEAN COMMISSION. 2011. Impact assessment - Common agricultural policy towards 2020. Brussels, 2011. [online]. [cit. 2015.12.07.] Available at: [http://ec.europa.eu/agriculture/policy-perspectives/impact-assessment/cap-towards-2020/report/full-text\\_en.pdf](http://ec.europa.eu/agriculture/policy-perspectives/impact-assessment/cap-towards-2020/report/full-text_en.pdf).
5. EUROPEAN COMMISSION. 2014. Agriculture. Luxembourg, 2014. 16 p. ISBN 978-92-79-41390-2.
6. EUROPEAN COMMISSION. 2015. Agriculture. 2015 [online]. [cit. 2015.12.07.] Available at: [http://europa.eu/pol/agr/index\\_en.htm](http://europa.eu/pol/agr/index_en.htm).
7. EUROPEAN EXTERNAL ACTION SERVICE. 2015. Foreign affairs and policy areas. 2015. [online]. [cit. 2015.12.08.] Available at: [http://eeas.europa.eu/policies/index\\_en.htm](http://eeas.europa.eu/policies/index_en.htm).
8. FAO UN, 2015. Themes of FAO. 2015. [online]. [cit. 2015.12.10.] Available at: <http://www.fao.org/themes/en/>.
9. HAGER, M. 1986. Training lawyers for development: eLDDI experience. In: Third world legal studies. Volume 5, Article 6. [online]. [cit. 2015.12.08.] Available at: <http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1116&context=twls>.
10. LEE, S. 2015. Call for a new analytical model for law and development. In: Law and development review. Volume 8, Issue 1, p. 1 - 68. ISSN 1943-3867.
11. OECD, 2015. Agricultural policy monitoring and evaluation 2015. Paris, 2015. ISBN 978-92-64-23455-0.
12. OHNESORGE, J. 2007. The rule of law. Univ. of Wisconsin Legal Studies Research Paper No. 1051. [online]. [cit. 2015.12.10.] Available at: <http://ssrn.com/abstract=1006093>.
13. PRADO, M. 2010. What is law and development? In: Revista argentina de teoria juridical. 2010. Volume 11. [online]. [cit. 2015.12.07.] Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1907298](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907298).
14. SANTOS, A. 2006. The World Bank's uses of the "rule of law" promise in economic development. In: The new law and economic development: a critical appraisal 253-300. 2006. [online]. [cit. 2015.12.07.] Available at: <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1915&context=facpub>.
15. UNITED NATIONS. 2015. Promote sustainable development. 2015 United Nations. 2015. [online]. [cit. 2015.12.08.] Available at: <http://www.un.org/en/sections/what-we-do/promote-sustainable-development/index.html>.
16. WORLD BANK. 2006. Law, equity and development. In: The World Bank legal review, The World Bank Group, Volume 2, 604 p. ISBN 0-8213-6831-1.

policy-perspectives/impact-assessment/cap-towards-2020/report/full-text\_en.pdf.

### Contact address/ Kontaktná adresa

**Mgr. Ing. Tomáš Malatínek, PhD.**  
Department of Regional Science and Management,  
Faculty of Economics, Technical University of Košice, Slovakia,  
e-mail: [tomas.malatinec@tuke.sk](mailto:tomas.malatinec@tuke.sk)