

## EVOLUTION OF ASSOCIATION FORMS STUDY FROM THE ROMANIAN AGRICULTURE AS ARISING FROM LEGISLATIVE REGULATIONS APPEARED AFTER 1990

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### Abstract

*The paper aims to analyze the main legal rules governing the operation of forms of association that have arisen since 1990 in the Romanian agriculture. For optimization of the comparative analysis methods the study focuses on four regulations, representative in the forms of association evolution. They are presented in chronological order: "Law no. 36/1991 regarding the agricultural companies and other agricultural associations" representing the first piece of legislation that enacted the association, "Ordinance No 26/2000 regarding associations and foundation", representing the second stage, "Agricultural cooperatives law No. 566" issued on December 9, 2004 and "Ordinance no. 37/2005 regarding the recognition and operation of the producer groups", due to Romania's pre-accession phase to the European Union. The results of this study establish first how the areas of agricultural activity were influenced by some legal details present in the legislation and on the other side identifies form of association which best matches the requirements imposed by the development of the agricultural products. It can be concluded that in terms of the concept of sustainable rural development, democratic association of agricultural cooperatives is the best alternative for Romanian farmers.*

**Keywords:** project, agricultural cooperatives, consultancy

### INTRODUCTION

This paper aims to present an overview of how the forms of association in Romanian agriculture evolved after 1990.

In recent decades, the world, radical changes have occurred in the design of agro – business, the market's global competition, international regulations and technological developments which led to the creation of new strategies on how farmers' can associate . Faced with such an environment with new rules, farmers were faced with a fundamental decision: how to do better in these conditions of uncertainty, to make farms viable, cost-effective, and resistant to competition on the markets.

As an alternative to the concentration or development strategies and horizontal integration, a new concept appeared which involves "Association". Analyzing the legal regulations in the agricultural development of our country, we can see that, after 1990 are

constituted in a democratic exercise, which has allowed a gradual efficiency of the activities of Romanian farmers.

In terms of structural organization the paper is divided into four distinct sections. In the first section there is found the motivation to prepare this study and the questions it answers.

The second section contains a description of general and specific conditions which determined a legislative evolution of association forms, in accordance with bibliographic information.

The third section details on one hand legislative characteristics of each type of association analysis and on the other hand areas of activity of their structure. The last section, the fourth, is devoted to conclusions.

Achievement motivation of this work was based on the need to identify developments and legislative changes that occurred at the association forms of agriculture and the

impact felt in this context by the Romanian farmers.

This study was designed to provide answers to these questions:

1. What are the most important legal regulations related to the association in agriculture in Romania after 1990?
2. How did the law evolve since the adherence of Romania to the European Union?
3. How have these regulations influenced the evolution of agricultural activity areas?

## MATERIAL AND METHOD

In our country, the general knowledge about the association is mainly based on negative experience of former Agricultural Cooperative Production (CAP), which existed from 1947 until 1989.

After the revolution of 1989, former Agricultural Cooperative Production (CAP's) have been abolished and land, which was administered by them, was returned to former owners and their successors. This resulted in about 4 million small farms, each with an average area of 2 to 3 hectares of arable land. For 15 years, agriculture trade imbalance has grown causing lack of stable markets and farmers have experienced difficulty in investments in agricultural activities, due to limited capital at their disposal.

The current association is represented by a series of new concepts which differ radically from „socialist cooperative” and is based on modern principles used worldwide.

In our country the agricultural association has known an evolution based on democratic landmarks and also a diversification due to individualization specific areas of activity.

With reference to the legislative structure we identify, in chronological order, four legislative regulations in the evolution of representative forms of association: "Law no. 36/1991 on agricultural companies and other agricultural associations" [1], representing the first piece of legislation that enacted the association," Ordinance. 26/2000 on associations and foundations" [2], representing the second stage," agricultural cooperatives Law. No. 566" [3] issued on

December 9, 2004 and" Ordinance no. 37/2005 on the recognition and operation of producer groups" [4], determined by Romania's pre-adherence phase to the European Union. The documentation referring to the legislation is complemented by the final report of the National Agency for Agricultural Consultancy in 2008 [5]. In this paper legal regulations are analyzed through the interpretation of the terms that have the greatest impact on the implementation of associative systems in Romania both at the daily farming activities and the major areas of activity.

## RESULTS AND DISCUSSIONS

In the development strategy of a modern agriculture in our country, the association should be considered a priority action, since it is the main way to increase the size of agricultural exploitations and also an economic use of the land.

At the same time, the association is an effective strategy to cope with market competition as well as to benefit from a real financial support granted by the State and the European Union.

The evolution of the Romanian association forms was realized through steps taken by our country up to the moment of adherence, but also after the adherence. In the second step of market relations established in the European Union regulates the association of producers in our country.

To have a clear picture of the development of forms of association of Romanian agriculture, Morărescu [6] comment on the structure and ratio of the number and size of existing arable land area in Romania. From Figure 1, it is notable that in 2008, and semi-subsistence farms subsistence occupied 93,7% of the total number of farms, despite having a surface percentage of only 32,5%. Quoted author notes that, by comparison, commercial farms owned 1087 percentage of all farms, and their surface represent 52,2% of total agricultural area of Romania.

The justified reluctance of producers and farmers to form associations, has been an

obstacle to their establishment, development and operation.

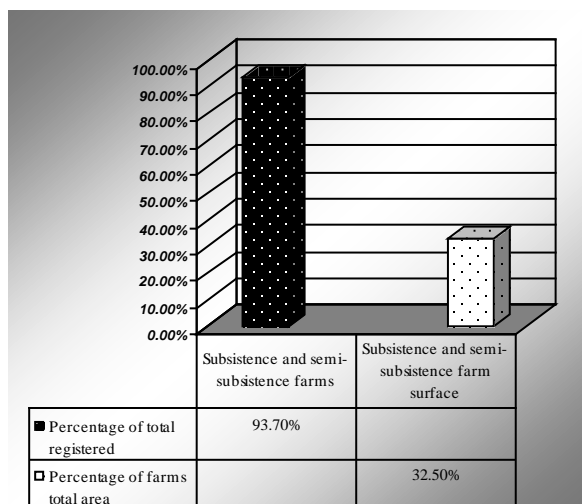


Fig. 1. Representation of subsistence and semi-subsistence farms in Romania

Farmers were unable to integrate into similar organisms of European and international cooperation, creating gaps in their evolution and losses at production level, particularly and in the agricultural sector in general. The association represented the only way to be able to achieve a set of measures to reduce disparities, to streamline production and ensure optimal conditions for sale. Therefore, after 1989 was felt the need to promote new forms of agricultural associations, that had to be based on democratic principles.

In this context, the adopted legislation has seen a series of laws that currently regulate the operation of forms of association of farmers as an important component of the products horticultural, agricultural and livestock. The application of these regulations was based on EU funding. Therefore, the rural population benefited from the pre-adherence phase to the European institutions, of funds granted to agriculture. Successful absorption of these funds was conditioned by the existence of a network of associations that represent the main factor able to access programs such as SAPARD and Farmer. By this time we can discuss about the existence of legislative inconsistencies which created at some point gaps and difficulties in accessing those funds.

After adherence, to the European Union began a process that aims to correct such

discrepancies so that the money destined to agriculture can be absorbed at a rate as high as possible. At this stage, the main mission of the Ministry of Agriculture Forestry and Rural Development, the relevant body, was the development of associative forms that is focused on joint marketing of the products produced by manufacturers. In this way, through the existence of those forms of association, the European Union considered established the mechanisms through which our country could benefit from funds allocated for rural development in Brussels.

The institution that was involved in the creation and development of associative forms was the National Agricultural Consultancy Agency (ANCA), through the Professional Training and Producers Associations Directorate - Associations and Group Organization Activities Department. In ANCA strategy, the association was considered a priority action, since it is the main way to increase the size of agricultural exploitations and thus an economic use of the land.

The association represents both an effective strategy to cope with market competition, and an opportunity to benefit from a real financial support granted by the State and the European Union.

As shown in Table 1 and Figure 2, the main existing forms of association in agriculture in our country after 1990 focused on four legislative regulations that became representative.

Therefore the first legal document that enacted agricultural association was issued on April 30, 1991 and was published in Official Gazette no. 97 of May 6, 1991. It is the "Law no. 36 regarding the agricultural companies and other agricultural associations "[1].

Table 1. Evolution of the main forms of legal regulations in Romanian agriculture association

Legislative reglementation	Associative forms	Established and recorded
Law No. 36/1991	Agricultural societies	130
Ordinance No. 26/2000	Associations and foundations	895
Law No. 566/2004	Agricultural cooperatives	356
Ordinance No. 37/2005	Groups of producers	42

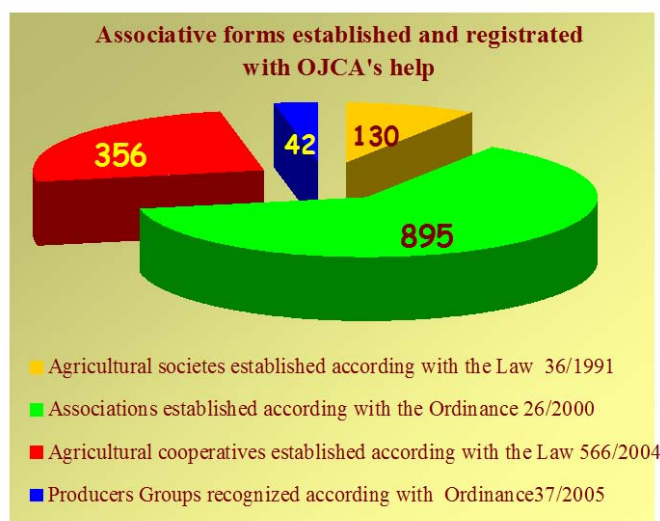


Fig.2. Forms of associations established and registered with OJCA's help

At its time of apparition in 1991, this law was a normative act that generally fit within the market economy which was at the beginning. The failure to reinvest profits and the fact that "the agricultural society has no commercial character", are elements of that legislation that can not provide a cash flow to ensure a real development of the company.

Another important step in the evolution of the associative forms was represented, in 2000, by the appearance of Ordinance No. 26 [2] from 30 January, regarding associations and foundations.

In article 1, alignment 2 is stated:

„Associations and foundations constituted according with the present Ordinance are private law juridical persons În articolul 1 alineatul 2 se stipulează: “Asociațiile și fundațiile constituite potrivit prezentei ordonanțe sunt persoane juridice de drept privat without a patrimony purpose.” due to the non-patrimony character of the associations constituted through the Ordinance No 26/2000 appears a similar problem to that existing in the case of Law 36/1991, namely the impossibility of financial flows existence able to allow redistribution of profits.

Associations of agricultural producers who have established and operated in accordance with the GO 26/2000, represents "subject of law, made three or more persons, who according to an agreement, put together

without the right to return the material contribution, knowledge and their contribution to the work for making of general interest activities, community interest or, where appropriate, for their personal nonprofit prerogatives. "

The advantages of establishing an association of producers are:

- Tracking of local, regional or group interest;
- Improving information concerning supply and demand;
- Promotion of food products on national and international markets;
- Ensuring equal rights for all members;
- Protection of members' interests in their relations with government bodies and state administration;
- Promoting practices and technologies to ensure environmental protection.

On December 9, 2004, the Romanian Parliament issued Law 566 [3], bill which accompanied by the subsequent amendments, is governing the establishment and operation of democratic agricultural cooperatives in Romania. The complexity of this law, the advantages it offers direct reference to agricultural producers are elements forming one of the most comprehensive legal possibilities for farmers association in Romania.

Agricultural cooperative represents an autonomous association of individuals and / or legal persons, as appropriate, having legal entity status of private law, formed on the basis of freely expressed consent by the the parties to promote the interests of cooperative members.

Agricultural cooperative can have an unlimited number of members, with variable capital, but not less than five (5) people engaged in economic activities, technical and social for the supply of goods, services and jobs exclusively or mainly for its members.

There are and function agricultural cooperative of :

- First degree consisting of associations of individuals;
- Grade II, formed by legal persons cooperatives consisting mostly of first degree

or individuals and legal persons, as appropriate.

Areas and activity domains of agricultural cooperatives are:

- Provision of services;
- Acquisitions and sales;
- Processing agricultural products;
- Small manufacturing and agricultural industry;
- Land exploitation and agricultural land management, forestry, fisheries and livestock;
- Finance, mutual assistance and agricultural insurance;
- Other areas and industries.

Agricultural cooperative makes business activities, being producer of goods and services in agriculture.

Among the advantages of agricultural cooperatives can be mentioned:

- Their operating mechanisms are based on the principles of modern cooperatives with a strong democratic character
- share capital of first degree agricultural cooperatives is 500 RON, which enables the establishment of cooperatives by persons who have less capital;
- State tax incentives granted represent its contribution to rural development by creating new jobs;
- Engaging young people in an organized form.

Accession of Romania to European Union meant for Romanian agricultural producers, an important concept because the regulations regarding the market have changed. Thus on July 14, 2005 measures were taken concerning the recognition and operation of producer groups in the marketing of agricultural and forestry products.

Under terms of legislation this form of organization of farmers is regulated by GO 37/2005 [4], and its implementing rules.

Recognition as a group of producers or producer organizations may be required by the following legal forms:

- Commercial companies, according to Law no.31/1990;
- Agricultural companies and other agricultural associations, according to Law no.36/1991;

- Associations and foundations, according to GO no.26/2000, approved with amendments

- Agricultural cooperatives under Law nr.566/2004;

- Any other legal form of association, according to current legislation.

To qualify for financial benefits under the common organization of the market after integration of Romania in the European Union, the legal forms that work in the fruit and vegetable market and aimed at common commercialise of members production will be recognized as producer organizations or producer groups preliminary recognized.

As shown in Table 2, fields of activity of associative forms as the database according with the National Agency for Agricultural Consulting [5] are:

- Vegetable, fruit and viticulture
- Growing of cereals and technical plants
- Activities in agriculture
- Beekeeping
- Livestock
- Fisheries

By analyzing the ratio of areas of activity of existing forms of association in our country (Table 2 and Figure 3), one can reveal their evolution. Is observed as that immediately after 1991 there were constituted agricultural societies which were principally cereal activity profile (58% of their total number). After 2000, with the establishment of associations, there is noticed a particular interest to the livestock (79% of their total number).

Table 2 Main fields of activity of associative forms (% of total)

Field of activity	Agricultural societies (36/1991)	Associations and foundations (26/2000)	Agricultural cooperatives (566/2004)	Groups of produces (37/2005)
Vegetable, fruit and viticulture	1	11	45	64
Growing of cereals and technical plants	58	2	4	2
Activities in agriculture	12	8	21	7
Livestock	27	75	10	16
Beekeeping	1	3	16	6
Fish-farming	1	1	4	5

Immediately before and after joining the European Union, we can see increased interest in cooperatives and producer groups from farmers working in the sectors of horticulture. Therefore, vegetable, fruit and viticulture are fields of activity representing 45% of the total number of agricultural cooperatives and 64% of the groups of producer.

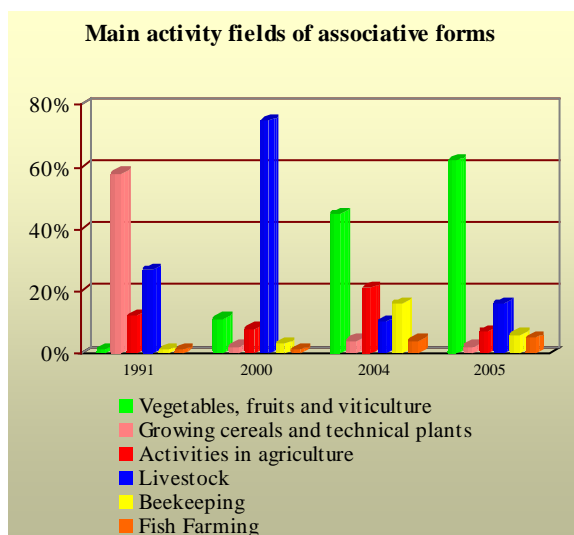


Fig.3. Evolution of the main fields of activity of associative forms

## CONCLUSIONS

-In the past 20 years, worldwide, radical changes have occurred in the design of agri-business - site and market competition.

-In an uncertain business environment, governed by global competition, which seeks the unification of the internal markets of the EU countries, the association is an alternative to focus strategies.

-Under the current circumstances in which Romanian agriculture is based on households with small farmers the only chance to grow and resist performance from EU agriculture, is to unite in forms of association.

- Romania has promoted the creation of modern forms of agricultural associations, based on democratic principles, the institution involved in this process being the National Agency for Agricultural Consultancy (ANCA)

-Adopted legislation, experienced a series of normative acts, of which 4

representative regulating the currently functioning forms of association of farmers.

-Producer groups have been created only for the joint selling of agricultural products, and in the associations and agricultural societies, profits can not be reinvested

-Cooperatives are the only body that can give manufacturers a competitive agriculture practice.

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