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ANALYSIS OF THE LEGAL BACKGROUND REGARDING THE ACCESS TO SPACE IN ROMANIAN AQUACULTURE

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Abstract

In Romania the largest spaces used for aquaculture are under the management of the National Administration ``Romanian Waters", of the National Agency for Fisheries and Aquaculture and of some territorial administrative units. Each have separate regulations regarding the transmission of space use. Each has separate regulations on the use of space use. This paper has looked for an answer to the question: would it be beneficial if there was a single regulation for the cost and other conditions of use of aquaculture space? For this purpose, were studied data from national institutions and community institutions, there were talk with specialists in the fisheries sector, and has been studied the position of one Romanian fish farmers association. The study concludes that the road to a common interest, both economic and social, is bearing fruit and is above a self-interest, and does not violate the right to property or the good manifestation of property.

Key words**:** *aquaculture, spatial planning, access to space, governance*

INTRODUCTION

The traditional fisheries managers, the natural scientists, and the environmental groups were the primary influencers of aquaculture regulations and policies [1].

The aquaculture scholarship just only recently has concentrate on governance issues. A current evaluation of global aquaculture offer more attention for underlining the importance of governance themes like value chain dynamics, best practice standards and public-private partnerships. Although the largest aquaculture production is in Asia, it is also growing rapidly in Africa, America and Europa. The aquaculture governance even in the representative countries like Egypt, Nigeria, USA, Chile, Ecuador, Brazil and Norway in country -level evaluation is not optimal. Worldwide, economically, one of ten people in one way or another, count on the aquaculture and fisheries economy. Fish contribute to the nutrition security, but this can be done only with a good governance that ensures an appropriate environment for food quality, fair access and distribution. It is very important where aquaculture takes place. The waterways and the coastlines, in terms of property rights and the last established institutions, are not enough governed place, being used for several uses by several groups. In the middle-income countries and in the low-income countries, the tourism, port and residential development under the Blue Economic Strategy and the Blue Growth Strategy can be harmful to food production and this aspect creates concern. The governance challenge regarding the physical space access and for the freshwater availability and quantity are : who has access, management, alienation rights, withdrawal and exclusion. Aquaculture need space and the costs and competition can be high. For inland aquaculture if the water resources are far away or limited the competition can be high. About of climate and earth system stability the governance challenge are: who an how contributes for maintaining the earth system stability. Sea-level rise, coastal storms, varied temperatures can influence the sufficient water availability. The knowledge of aquaculture commons and the proper institutions to govern them is lagging behind other sectors [19]. The multiple regulations that could be constrain the aquaculture sector can be found in high income countries, and in a middle-income countries and in a low-income countries the regulations are less demanding and fewer. The collective action is lagging behind, even though water management technologies have been at the forefront [9]. Fishing and aquaculture are also part of the bio-economy, the type of economy that produces and processes biological resources from terrestrial and aquatic agro-ecosystems [8].

The European Union has invested in aquaculture sector in the period 2000-2014, 1.17 billion Euro, and in the plan was to spend 1.72 billion Euro over the period 2014-2020 [7].

To build a sustainable future for aquaculture in all EU Member States, in 2009 the European Commission published the Communication Com (2009)0162[5]. The purpose of this communication was to implement several actions in order to ensure the increase of production and jobs. In order to solve the competition regarding space in the aquaculture sector, to stimulate the competitiveness of aquaculture production, one of the actions identified for implementation was to promote the spatial planning. The European Commission's strategic guidelines, COM (2013)0229 [6] provides assistance to Member States in defining national objections, a priority area representing the spatial planning with the aim of overcoming obstacles caused by the lack of space. Multiannual strategic plans were made for 2014-2020, where one of the goals proposed was to pursue security for operators regarding access to space and water.

This research is a continuation of previous studies on the evidence for the state-owned lands in Romania [18] and economic efficiency of Romanian aquaculture in terms of resource use [17] which lasts three years.

The question that arose during the research and to which the answer was found in this paper: would a single legal regulation on the cost and duration of access to aquaculture space be beneficial? The usefulness of the research lies in identifying the best practices regarding the economy of the fishing sector in Romania. Romania's natural potential for the fishing sector is valuable. Natural lakes and pools surfaces approximately 300,000 ha, the artificially created pools and lakes surfaces approximately 98,000 ha, hill and plain streams 47,000 km, mountain streams approximately 19,000 km, Danube river 1,075 km. Between Sulina and Vama Veche is located the Romanian fishing maritime area. The length of cost line is approximately 243 km [24]. We cannot afford to waste resources. This idea was the starting point of the present research, regarding the land exploitation related to the aquaculture farms on the Romanian territory.

There are overlaps in land records between lands destined to aquaculture with other lands. The owner of the land can be the state, the territorial administrative unit, or other natural and legal persons. This paper analyzes only the situations when the owner is the state or the territorial administrative unit.

These areas being highlighted both in the Inventory of the goods that make up the public domain of the state and in the Inventory of the goods that make up the public and private domain of communes, cities, municipalities and counties. These overlaps are reflected in the fact that some lands have been included both in the Inventory of the goods that make up the public domain of the state and in the Inventory of the goods that make up the public and private domain of communes, cities, municipalities and counties. This prevents the undisturbed economic manifestation of land [18]. These overlaps are clarified within a fairly long time, getting in court, requiring human and financial resources.

Another study presented the history of the legal status from 1989 to 2019, but also the amount of land areas related to aquaculture [17]. According to the author, in 1989 the land area on which aquaculture farms were located was approximately 105,300 ha, owned by the Romanian state. Of this area, approximately 61,400 ha were under the coordination of the Central Fish Production and Industrialization (CPIP), and approximately 43,900 ha were located on the territory of the Danube Delta under the coordination of the Danube Delta Station. The Multiannual National Strategic Plan on Aquaculture 2014-2020 published on the website of the National Agency for Fisheries and Aquaculture [2] showed that in the Danube Delta from the total area of 43,937 ha in 2013 the area of 20,662 ha is still used for aquaculture farming, the rest being transformed into area with the category of arable, pasture or unproductive use. The area of 61,400 ha that was in the CPIP management, after 1990 passed into the

patrimony of the 34 newly established joint stock companies. In 2001, through Law 268/2001 [21], the State Domains Agency (ADS) was established, and took over in its administration the shares of these companies, to which was added the administration of several State Agricultural Enterprises (IAS) that owned aquaculture farms. The IAS managed an area of 2,512.58 ha and the companies 63,671.68 ha. The aquaculture sector has gone through the privatization process, process coordinated by ADS. The shares were sold and the land was leased.

Table 1. The land surfaces taken from the ADS

County	**The land surface-ha**
Alba	202.30
Arad	955.47
Bacău	198.29
Bihor	1,354.14
Bistrița - Năsăud	134.02
Botoșani	2,780.60
Brăila	8,308.88
Brașov	418,32
București	14,65
Buzău	2,707.15
Călărași	2,821.21
Caraș-Severin	127.73
Cluj	921.56
Constanța	11,818.96
Dolj	3,998.00
Dâmbovița	657.28
Galați	3,940.68
Giurgiu	1,299.85
Ialomița	1,934.04
Iași	3,213.79
Ilfov	1,075.20
Mehedinti	1,109.46
Mureș	1,032.68
Neamt	504.76
Olt	19.00
Prahova	803.98
Sălaj	158.68
Satu- Mare	779.22
Sibiu	672.12
Suceava	654.38
Teleorman	1,520.36
Timis	683.20
Tulcea	2,054.63
Vâlcea	57.04
Vaslui	1,190.23
Vrancea	1,325.16
Total	**61,447.01**

Source: own calculation on the basis of data from Multiannual strategic plan for aquaculture 2021-2030 [4].

In 2001, Law 192/2001 established the National Fisheries Fund Management Company (CNAFP) [23], which took over the remaining packages of shares, privatization contracts, concession contracts, as well as land. In 2008 CNAFP is abolished, handing over the entire portfolio to ADS, the National Agency for Fisheries and Aquaculture (ANPA) is established, which in 2010 according to Law 317/2009 [22] takes over from ADS the remaining shares, contracts and lands. The lands taken over by ANPA from ADS had a total area of 61,447.01 ha, Table 1. Following the privatization, some companies existing at that time did not resist the market economy, stopped the activity or went bankrupt, or changed the category of use of the land from muddy waters to arable land, in the desire to obtain a subsidy from the state. As a consequence, the area exploited in the Romanian aquaculture sector decreased during the mentioned period, and in 2019 the production in this sector was at a volume of only 40% compared to 1989 (ANPA).

As a result of the fact that there is a double management of the lands, of the fact that the process of cadastre and tabulation is slow, for 2019 there is no clear and complete evidence of the patrimony arranged for aquaculture. This lack of clarity in the records complicates the process of sizing the financial support for the sector development. Regarding the areas managed by ANPA, a part of 31,189 ha are areas in operation, and 27,998 ha are not leased due to the multiple issues of the legal status of the areas (ANPA). The fish potential represented by the accumulation lakes - which are managed by the National Administration "Romanian Waters" (ANAR) and the administrative-territorial units - covers an area of approximately 20,000 ha, which are or can be used for extensive and semi-intensive aquaculture. Regarding the accumulation lakes, an area of 17,426 ha has been identified for floating aquaculture, of which, according to the recommendations, only a percentage of 10% can be used, respectively 1,743 ha (ANPA). The management of aquaculture land by various state institutions, the transfer of use to various business agents - regulated by different regulations, creates uncertainty

about the rights of users for medium and long term, necessary to justify the investments to be made. Eight normative acts have been identified that regulate the operation legality in aquaculture. In order to achieve the goals of these regulations, different conditions and validity terms are provided.

In this context, the purpose of the paper is is to find out if only one regulation is beneficial for the concession of the land under the management of ANAR, ANPA and territorial administrative units.

MATERIALS AND METHODS

The method used in this research is qualitative, using the documents provided by National Agency for Fisheries and Aquaculture (ANPA), but also by applying interviews to specialists with long experience in the aquaculture sector, with two heads of regional services from ANPA, 2 inspectors working on ANPA with more than 30 years of experience in the field, a specialist who was president of ANPA, as well as direct observation of the procedures for the enforcement of the legislation in force on aquaculture, and their effect on the fisheries sector. One analyzed the data received from Romfish Association, which represents the interests of the business agents in the fishing sector, and is a consultant for the fishing sector. The reference area of the data used refers strictly to the national level.

RESULTS AND DISCUSSIONS

Until 1989, most aquaculture farms included the primary processing of fish. After 1990, the factories gradually decreased their production and even ceased their operations.

At the level of 2019, on the Romanian territory, the situation of the aquaculture facilities registered in the Register of Aquaculture Units (RUA) was as follows: 728 aquaculture licenses were granted for breeders covering a total area of 72,835 ha and 241 licenses for nurseries with a total area of 7,256 ha (ANPA). These areas, in addition to state ownership and the ownership of territorial administrative units, also include private property.

Data taken from the quantitative research report Consumption of fish and fishery products in Romania, show that in 2018, in Romania, the annual consumption of fish was 8 kg per capita, and in 2019 was 7.5 kg per capita [3].

The volume of national aquaculture production in the period 2015-2019 is presented in Table 2.

Table 2. The volume of aquaculture production during the period 2015-2019

Year	Production (tons)
2015	11,018
2016	12,472
2017	12,796
2018	12,300
2019	12,848

Source: own calculation on the basis of data from ANPA [3].

In terms of distribution by development region, the largest share of national aquaculture production is in the North-East development region, with 29% of total production, followed by the South, South-East, North-East development regions. West and Center, with shares between 9% and 21% (ANPA). The low share of aquaculture production in the South-West and Bucharest-Ilfov regions is due to the fact that, in most fisheries facilities, there are farms where recreational fishing is mainly practiced.

From the point of view of the volume of national aquaculture production in the period 2015-2019, there are moderate fluctuations, from an increase of 16% during 2015-2017, to a decrease of approximately 4% in the production marketed in 2018, compared to 2017.

One of the reasons for the decrease in the national aquaculture production in 2018 was the land concession procedure by the Romanian Waters National Administration, which, during the procedure, practically blocked the production within the natural or accumulation lakes. Another cause of fluctuating and low aquaculture production is due to excessive bureaucracy and cumbersome procedures for access to fisheries

facilities and aquaculture, in relation to the importance of the aquaculture sector in society.

The institutions involved in the legislative regulations (through the eight normative acts regarding these procedures), are:

1. Environmental Protection Agency, for the issuance of the environmental permit Order 1798/2007 [16] and Order 1171/2018 [15];
2. National Agency for Fisheries and Aquaculture;
 - leases the lands managed, regulated by Order 533/2019 [11];
- issues the aquaculture license according to Order 332/2008 [10];
3. National Authority Romanian Waters:
- leases the use of managed lands regulated by Order 1093/2017 [14];
- issues the water management permit in accordance with Order 891/2019 [13];
 - issues the permit for safe operation of dams, regulated by Order 118/2002 [12];
5. Territorial Administrative Units (TAU):
- concedes the use of the land owned according to GEO 57/2019 [20].

The concession of the land in the state property and in the ANPA administration or in ANAR administration or the property of ATU observes GEO 57/2019 regarding the Administrative Code, and is made by auction by the land manager. The start-up fee is calculated, the final fee being set by auction, but without the possibility of being lower than the start-up fee. The price of the starting fee differs, depending on the land manager.

In the interviews with the specialists, they all expressed their opinion that the economy in the fishing sector would benefit if there were a single legislation regarding the access to space in the fishing sector. Romfish Association also expressed this view.

The concession duration is a factor of interest, in terms of the investments required for the operation of the fishery arrangement.

CONCLUSIONS

Spatial planning for aquaculture includes landscaping, both inland and marine area. In the inland area, it is considered a priority for the aquaculture development. In the marine area, reference is made to the area where aquaculture can be developed, and which provides an integrated approach. Common regulations on access to aquaculture land would facilitate an easier accessibility, helping to harmonize environmental and economic policies.

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