

LEGAL RESEARCHES AND ISSUES OF THE AGRICULTURAL LANDS FROM BIHOR COUNTY

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Abstract

The researches on the agricultural land in Bihor County is of interest to our country, primarily due to the geographic location of the county, being an access gateway to the interior of the country, and secondly due to the existence of a large plain area on which the agricultural activity can be practiced. This topic needs to be approached from a legal standpoint, by compiling and comparing the declarative statistical data, with those actually recorded in the Land Register because it influences the agricultural and economic activity that takes place on the agricultural land in Bihor County.

The definition of the agricultural land is regulated by Law no. 18/1991: "land intended for agriculture, namely: productive agricultural land – arable land, vineyards, orchards, vineyard nurseries, fruit tree nurseries, hop and mulberry plantations, grassland, meadows, greenhouses, solariums, seedbeds and the like -, those with forest vegetation, unless they are part of the forestry arrangements, wooded pastures, those occupied by agrozootechnical constructions and installations, piscicultural and land improvement arrangements, technological and agricultural exploitation roads, storage facilities and platforms that serve the needs of agricultural production, and non-productive land which can be arranged and used for agricultural production.

Keywords: agricultural land, agriculture, property, area, Bihor

INTRODUCTION

In the research done object is limited from a territorial standpoint, namely Bihor County, analysing the agricultural land in this area both from a legal standpoint as well as from an agricultural point of view, taking into account the evolution, trends and adaptability to the requirements established by the European Union.

From the administrative point of view, the perimeter intended for the research is represented by Bihor County. It is located in the Northwest of Romania, with an area of 7,544 km², of which 499,600 hectares is represented by agricultural land, according to (Wikipedia). It borders on the Northeast with the counties of Satu Mare and Sălaj, in the East with Cluj County, in the Southeast with the counties of Alba and Arad, and in the West with the Republic of Hungary.

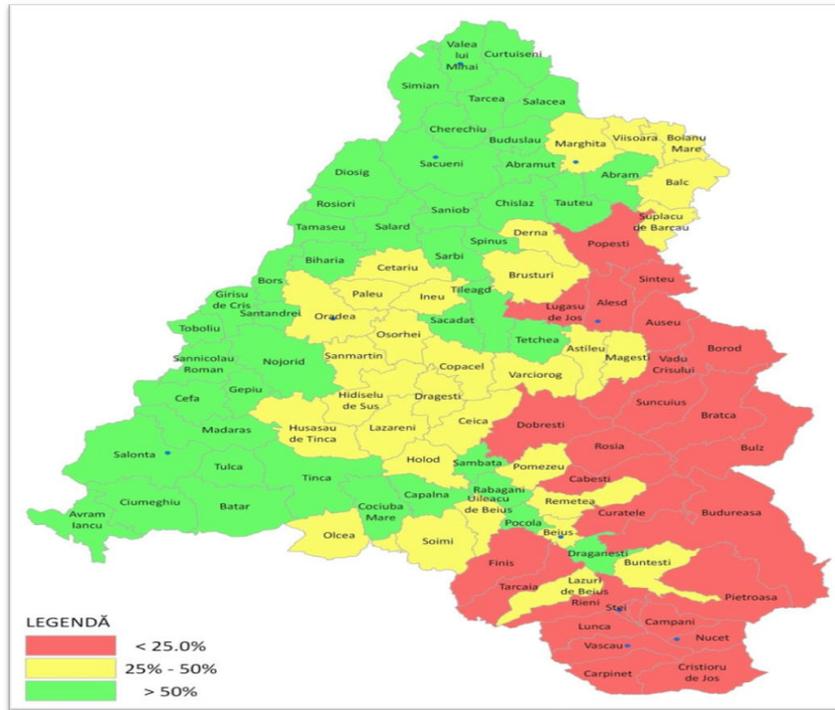


Fig.1 The share of arable land of the total agricultural area of Bihor County in 2011 (according to the Strategy for Sustainable Development of Bihor County, 2014-2020 of INSSE)

MATERIAL AND METHOD

The research contains general information and has been taken from the specialised literature, according to the bibliography mentioned, and those referring to exact data on the land areas expressed in hectares, percentages, etc. come from the records of the Ministry of Agriculture and Rural Development (MADR), National Institute of Statistics (INS), Agency for Payments and Intervention for Agriculture (APIA), National Agency for Cadastre and Real Estate Registration (ANCPI).

I also used the information sources by accessing the sites: MADR, INSSE, APIA, Eurostat and on-line publications with agricultural profile.

RESULTS AND DISCUSSION

The situation of the agricultural land in Bihor County should be analysed as follows:

- according to the records existing at Bihor County Statistics Directorate drawn up based on citizens' declarations;
- according to the records existing at Bihor Cadastre and Real Estate Registration Office prepared on the basis of the actual situation in the field, based on the registrations and not on the issued title deeds, being legally regulated;
- according to the records existing at Bihor Agency for Payments and Interventions for Agriculture, based on the requests of the farmers in order to obtain support from the European Union, as agricultural land users and not owners.

The Land Fund represents the total land, irrespective of its destination, of the title on which it is held or the form of ownership. The agricultural area includes the land intended for agriculture and contains: arable land, grassland and natural meadow fields, vineyards and vineyard nurseries, orchards and fruit tree nurseries.(Table 1; Fig.1)

Table 1
Evolution of the land fund in Bihor County, by categories of use, between 2000 - 2014 Statistical yearbook of Bihor County 2017

The year	2000 (ha)	2005 (ha)	2006 (ha)	2007 (ha)	2008 (ha)	2010 (ha)	2011 (ha)	2012 (ha)	2014 (ha)
Total area	754427	754427	754427	754427	754427	754427	754427	754427	754427
Agricultural area of which	499562	497167	496907	496907	496765	488489	488664	487324	487072
Arable	302493	309084	309327	309327	309265	307585	307760	308679	308819
Grassland	138778	136370	136201	136201	136121	132320	132320	130964	130964
Meadows	42567	44752	44615	44615	44615	42148	42148	41245	41245
Vineyards	5483	2109	2057	2057	2057	2334	2334	2334	2222
Orchards	10241	4852	4707	4707	4707	4102	4102	4102	3822

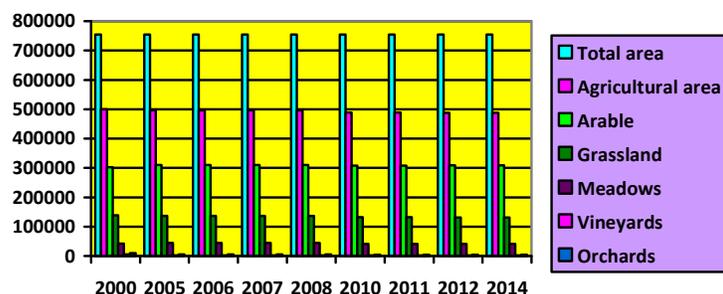


Fig.1 Evolution of the land fund in Bihor County, between 2000-2014
(Statistical yearbook of Bihor County 2017)

Both in our country as well as in the county of Bihor, the agricultural sector outputs are influenced by two important factors:

- how the land fund has been implemented legally and its efficiency, in the meaning of determining the area on which agriculture can be practiced
- dependence of the agricultural production based on meteorological criteria and the lack of irrigation systems.

The study starts from a fundamental right - the right of ownership of agricultural land in Bihor County, which has direct effects on the agriculture in the county.

The most recent law of the land fund that is in force even today is *Law no. 18/1991*. Until now, this normative act has undergone 23 amendments, which indicates that this field will suffer further, implicitly affecting both agriculture as well as the ownership of the agricultural land in our country and, implicitly, in Bihor county.

Starting with 2014, foreign citizens can acquire ownership right of agricultural land, forests and forestry land, according to Article no. 5 of Law no. 312/2005. This is also due to the fact that in Romania are being applied favourable prices for the sale - purchase of land with respect to the European Union, and the geographic positioning of Bihor County increases this approach. It is obvious that the increasing price for the hectare of agricultural land is also given by the foreign buyers market.

Table 2

The dynamics of the transactions for agricultural land located in the unincorporated area of Bihor County

The year	August 2018	May 2018	January 2018	October 2018	June 2017	January 2017
The surface (ha)	187	478	231	464	887	149

According to Cadastre and Real Estate Advertising Agency data

From the point of view of the legal aspect, it is necessary to pay special attention to the agricultural lands situated in the unincorporated area of the localities. They have been subject to the pre-emption right and it has been regulated by Law no. 54/1998 on the legal circulation of land. This right confers preference to a person named pre-emptor to buy a good at an equal price when the direct owner wants to sell that good. This is the capacity of the neighbours as owners of the land adjacent to the one proposed for sale and the lessees. Starting with 2005, by Law no. 247/2005, the Law no. 54/1998 was abrogated in its entirety. The Civil Code also regulates the pre-emption right in Articles 1730 – 1740. Subsequently, by Law no. 17/2014 is resumed the obligation to observe the pre-emption right, referring to the agricultural lands located in the unincorporated area of the localities.

Except for the regulation of the pre-emption right, this normative document also determines the conditions under which agricultural land can be purchased on the territory of the Romanian state: the display of a sale offer at the headquarters of the town hall in whose administrative area the agricultural land is situated, the approval of the Ministry of Culture, of the Ministry of Agriculture and Rural Development and the Approval of the Ministry of National Defence, the issuance of the certificate on the exercise of the pre-emption right.

Regarding the legal regime of public property, according to the provisions of Art. 2 of Law no. 18/1991 republished, and Art. 11 of Law no. 213/1998, the lands belonging to the public domain are inalienable, imprescriptible and unseizable. These lands may be alienated only through special procedures, i.e. on public auction; except for the expropriation for the cause of public utility.

Private ownership lands, irrespective of whether they are owned by natural or legal persons, are in the civil circuit, that is, they can be acquired and alienated under the provisions of common law and in compliance with the special provisions of Law no. 17/2014.

CONCLUSIONS

One of the consequences of applying the land fund is the fact that even currently, in Bihor County still continues to predominate small farms practicing agriculture individually and on a smaller scale. Moreover, a large part of these people, for the purpose of receiving agricultural subsidies, do not work the agricultural land as they declare: either they do not have pertinent documents or they exchange lands without legal forms (verbal agreements) to help farmers holding larger and more compact areas.

The legal possibility granted to foreign citizens in order to purchase agricultural land, starting with 2014, in Bihor County, has led to an increase of the transactions for land plots. The purpose of Law no. 17/2014 is to try to combine the agricultural land, but at the same time it also represents a restriction of the right to purchase agricultural land by other natural or legal persons. This impediment also results from the uneasy completion of the stages necessary to obtain several approvals from public institutions.

In many situations, as the legal aspect of the agricultural land situation is not clarified, this fact determines effects on its manner of use and, implicitly, on the production. Such situations are mostly encountered in the rural areas of Romania and especially in Bihor county, and often family members come to stop talking to each other, and the agricultural land remains unworked or unmaintained.

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