

THE ROLE OF THE REGULATORY SYSTEM OF AGRICULTURAL LAND RELATIONS IN THE REPUBLIC OF MOLDOVA

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Abstract: *The Republic of Moldova has undergone a cardinal reform of land relations in a relatively short period of time. The reason for this reform is the transition from state land ownership to private land ownership. This reform was inevitable and had social and economic reasons. At the same time, its realization has triggered a complex of problems related to the efficient use of agricultural lands, demographic problems, organizational forms, etc.*

The lack of a Land Relations Regulatory System is the reason for the shortcomings in the country's social and economic development. It is necessary to create a Land Relations Regulatory System that will regulate land relations at all levels.

An important role in regulating land relations could belong to the reform of the management functions distribution between the central and local government by granting additional powers to the local government.

Keywords: *regulatory system, land relations, cadastre, rights registration.*

1. Introduction

1.1 Actuality and importance of the studied topic

Any reform that concerns the right to property is considered fundamental. The peculiarities of the reform that is going on in the current period of the Republic of Moldova refer to both form and content of the main element of the society and economy - land property.

In accordance with the National Strategy for Agricultural and Rural Development of the Republic of Moldova for the years 2014-2020, approved by the Governmental Decision no. 409 of June 4th, 2014, the development of land relations is still considered one of the national strategic priorities, taking in consideration the favorable conditions of the country - the natural and socio-economic framework, the historical traditions and the experience of the rural population. Land policies are a complex of ways of solving problems and situations that occur in the land relations system; they are necessary to reorient the sector towards modernization and efficiency. Every country has land relations with regulatory elements, with certain land policies.

Current land relations started in 1990-1992, but until now the theoretical and methodological bases have remained at the initial stage. The legislative framework is not developed. The land code that had the purpose of implementing the private property on the land and land relations based on private property has been in force until today, even if the form of private property advanced a lot.

In the created situation it is imposing to create a new conception of land relations. Its object would be all forms of private property on the land for socio-economical-ecological management, in everyone's interest. Solving this problem requires fundamental conceptual, methodological, and institutional studies.

The actuality of the studied theme is explained by the totality of personal and social interests, by the necessity of finding balance in solving the conflicts of land interests, by the increasingly pronounced aspect of the economic factor and interest.

1.2 Purpose and objectives of the research

The purpose of the paper is to analyze and elaborate the proposals regarding the improvement of the land relations regulatory system at the stage of implementation of new forms of sustainable use of private property on limited natural resources. In order to achieve the established purpose, the following objectives are formulated by the author:

- the objective necessity for the regulatory system;
- the analysis of the main influence factors on the land relations regulatory system;
- the determination of the main directions in the development of the legislative-normative framework of the land relations regulation process;
- the role and purpose of the land relations regulatory system;
- the content of the land relations regulatory system.

1.3 Material and methods

The subject of this study is agricultural land relations. The object of agricultural land relations is examined through the prism of the development of the agricultural land fund, of the organizational-legal forms of the agricultural holdings in the Republic of Moldova, formed under the influence of the land reform in the process of land relations regulation.

The informative material used in the study was the following:

- the annals of the Land and Cadastre Agency;
- the annual and regular information of the National Bureau of Statistics of the Republic of Moldova;
- The Real Estate Registry held by the State Enterprise "Cadastre" and territorial cadastral services;
- The Legislative framework of the Republic of Moldova in the field of cadastre;
- the scientific studies of the cadastre and geodesy department;

In the investigation, several scientific methods of study were applied: statistical data analysis; method of graphical analysis of trends; method of analysis and synthesis, etc. Scientific analysis methods are applied in the study according to the particularities of the problem under consideration.

2. The objective necessity of the regulatory system

All relationships, not just land relationships, which appear in society among subjects, need to be regulated. The objectivity of regulating relationships has axiomatic content. The problem of regulating relationships lies in how to regulate.

For example, it is practically impossible to regulate all the relationships in only one domain, such as land domain, by applying the law (the legislative framework). This conclusion focuses on studying and applying other regulatory forms (methods, mechanisms). It is important to meet the needs of the society. The effective regulation of land relations is based on the structure of land relations and of the Regulatory System (Chart 1).

The objective necessity of regulating land relations is the mandatory recognition of relations between the members of the society, the formulation and observance of certain rules of behavior of these members in these relations.

The objective necessity of regulating relations and, respectively, the formulation and observance of rules of behavior between the members of society are objective conditions for the creation of the Regulatory System.

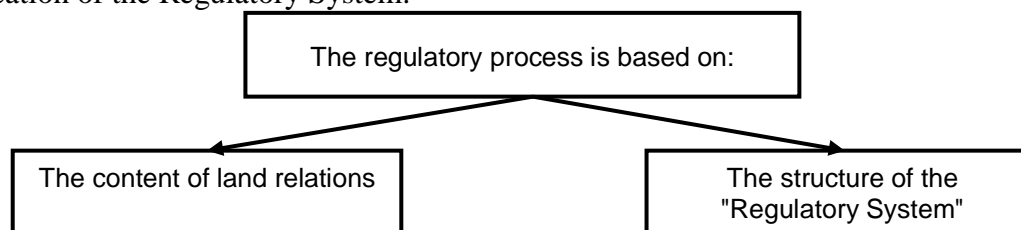


Chart1. Structure of the land relations regulatory process

Source: Elaborated by the author

Thus, we can formulate the main condition of the Land Relations Regulatory System - the objective of the System is the regulation of land relations.

Any system as a philosophical notion is a set of organizational elements, law, tax, registers, classifiers, etc., dependent on each other by the object of actions that form a whole organized in a field, and make the practical activity function according to the pursued aim.

2.1 Analysis of the main influence factors on the land relations regulatory system

The land (the land fund) has been recognized as an object of land relations because of its diversity. It inevitably creates different influence factors on the structure of the Regulatory System. Further we will give some general examples about the influence methods. We will try to analyze land for agriculture and forestry in terms of land relations arising from the subject of land relations.

The lands for agricultural use will produce predominantly economic relations. The lands of the forest fund will give rise to predominantly ecological relations. In order to demonstrate the role of the object of land relations on the structure of the system, we will divide land for agriculture into destination subcategories. Further we will see that high-quality lands form ecological and legal relations. Lands for construction are more regulated by legal rules (by law).

The subjects of land relations (individuals, legal entities, other legal forms of organization, the state) are also factors of influence on the structure of the regulatory system. Thus, the land relations between individuals will differ from the land relations between the legal entities and from the state relations.

Land relations between individuals are predominantly of "use and consumption". The relations between legal entities beside "use and consumption" include organizational aspects, management, economic, legal, environmental, etc. aspects. The state plays an important role in forming the structure of land relations as it has organizational, legal, etc. force.

Since the legal land relations are the oldest ones, they are also socially recognized and form the core of land relations as a whole. In the absence of legal relations there will be no economic relations of production. The legal relations, their formulation and observance create the subject's guarantee on the property, the confidence that his production activity that implies land will be recognized by other subjects.

The regulation of economic relations is already based on the existence of legal relations formulated and respected by law. In the practice of economic relations, it is recognized that the more developed (credible) the legal relations of are, the more efficient are

the economic relations. Here another successful economic category emerges and develops - the personal interest of the subject. The success of the production process is highly dependent on the subject's interest in the process. The application of economic relations as a stable and sustainable component, however, still derives from the politics of France during the period of Napoleon [1]. At that time the economic component of land relations got an application in fiscal policy being developed in the credit-banking, investment, subsidy policy. French practice in this area has spread over a short period in most countries and is currently prevailing.

The ecological aspect of land relations stems from the need for the protection and sustainable use of limited natural resources, as the population of the earth is constantly increasing. Obviously, within the limited natural resources, the main role belongs to the land resources. The ecological aspect of land relations is interconnected with legal and economic aspects. Thus, the protection against soil erosion, the elaboration and implementation of erosion control measures, other protection measures are made in common with the legal measures in this field. The afforestation of the eroded land can be stimulated by economic measures.

2.2 The role and purpose of the land relations regulatory system

The system of regulating land relations is a product of the society, accompanied by a particular goal. The current period in the development of land relations has its peculiarities dictated by the development of the basic areas of society (industry, agriculture, etc.).

From the analysis of the historical development of land relations, we can state the existence of the land relations regulatory system in all countries. Where there is an interest in land, there inevitably appear relations and the need to regulate them to a different extent depending on the demands of the society.

The purpose of the Land Relations Regulatory System is to:

- a) analyze the regulatory process;
- b) develop or select methods, mechanisms for land relations regulation;
- c) implement methods of land relations regulation;
- d) monitor the implementation of regulatory methods.

3. The content of the Land Relations Regulatory System.

The purpose of the Land Relations Regulation System, the multitude and diversity of land relations show the structural necessity of the system. Land Relations Regulation System is a systemic activity that may include (Chart 2):

- the system of institutions involved in the regulation of relations;
- the legislative system, which includes the elaboration and implementation of the system of laws;
- the system of registries applied in the regulatory process;
- the land market as a totality of relationships in the totality of supply and demand.

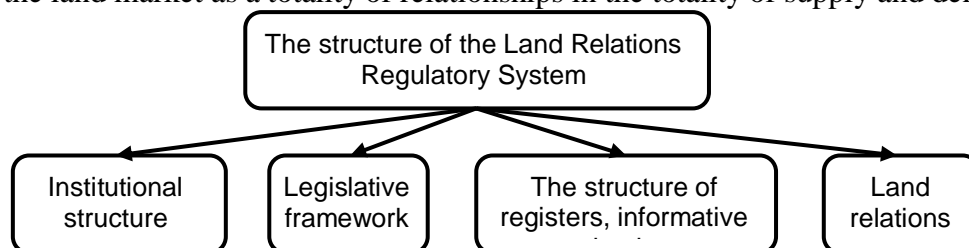


Chart 2. The structure of the Land Relations Regulatory System

Source: Elaborated by the author

3.1 The institutional structure of the regulatory system

The institutional structure of the Land Relations Regulatory System depends on the level and quality of land relations. For example, in the social conditions when the formation of the right to property is not completed, the focus will be on this issue. The institutions of the Land Relations Regulatory System will be concerned with the following issues: rights formation and registration, rights authentication, settlement of legal disputes, etc. The Institutional System (the Parliament of the Republic of Moldova) by elaborating the legislative framework (the Constitution, the Civil Code, and the Land Code) created the premises of a new Institutional System competent in the implementation of the market land relations.

At the initial stage the Ministry of Agriculture, Regional Development and the Environment was responsible for the regulation of land relations at the state level, and the local councils of the mayoralties were responsible at the level of the localities.. This example can refer to the situation of the Republic of Moldova's Land Relations Regulatory System for the years 1992-2000. At that time solving legal problems allowed the implementation of economic and ecological policies. The functions of the institutional structure of the System are the formation of the legislative framework, the elaboration of economic and ecological policies (Chart 3).

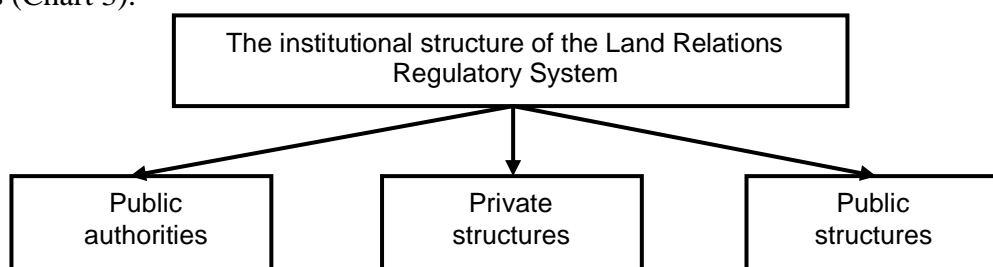


Chart 3. The institutional structure of the Land Relations Regulatory System

Source: Developed by the author

An important role in the Land Relations Regulatory System belongs to public authorities as they develop the legislative framework, economic and environmental policies. The level of the society's development is appropriate to the level of activity of the public authorities. The situation created in the Republic of Moldova can serve as an obvious example. Due to the lack of the regulatory legal framework for land relations, which is the direct function of the respective public authorities, a disastrous situation has been created in the economic policies (sub-leasing, lending, investment, etc.). Private structures within the institutional framework of the Regulatory System will not develop the legislative framework. Under these circumstances, they are less effective.

Today public structures have become less effective. At the same time, their necessity is mandatory in a number of land relations situations, especially in rural areas, with regard to the shared use of pastures, meadows, and various local problems. Local authorities have an important role here.

In the process of land fund management in rural areas, especially agricultural lands, a whole range of issues and questions arise about the efficient use of these lands, especially from the owners. It is necessary to solve these problems locally with the involvement of the mayoralty. In this context, the idea of restoring the activity of the land commissions in the structure of the mayor's office, which were previously created with the purpose of realizing the national program "Earth" regarding the privatization of agricultural land, is welcome. These commissions must be empowered with the necessary skills to carry out their activities.

These commissions also need to include representatives from the landowners , especially those representing the interests of the majority of agricultural owners. This fact will help to successfully solve the problems that will come up in the production process on time and, thus contributing to a better improvement of the the agricultural sector development and of the locality as a whole.

Every owner is an involved person and must comply with the law. No public authority has the right to litigate the owner’s interests. This happens more often when changing the destination category. In this case, the public authorities assume the function of forbidding the owner of the right to change the destination category; they impose additional conditions that are not stated by law.

The efficient regulation of land relations can only be carried out with the detailed knowledge of the situation between the subjects and the object. In order to monitor the situation, to monitor the compliance with the legislation in force, to draft proposals for the application of the forced measures, the Government will establish the Department of Land Relations Regulation - central public authority in the field. The structure of the Department will be determined by the Regulation approved by the Government.

3.2 The legislative framework

We have already noticed that there exists an institutional structure for the process of regulating land relations. In its turn, the institutional structure operates on the basis of the legislative framework (Chart 4). The functions of the institutional structure are set by law at all levels.

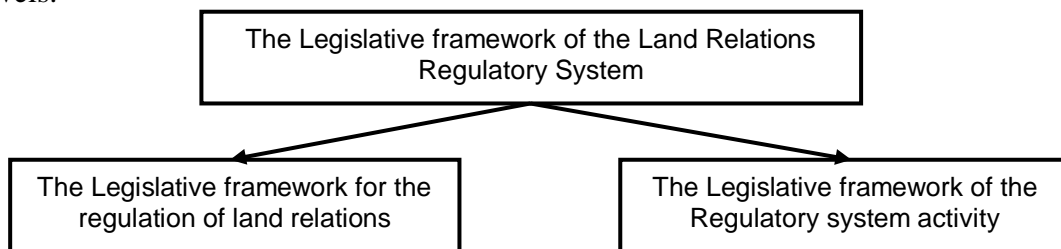


Chart 4. The Legislative framework of the land relations regulatory system

Source: Developed by the author

The main function of the institutional structure is the regulatory process monitoring and the elaboration of the respective measures regarding both the land relations and the institutional structure. Referring to land relations, the legislative framework addresses three important issues:

- the formation, acquisition and protection of the right to private ownership over land, of other rights, obligations, interests, setting of priorities, etc;
- the establishment of the boundaries of property rights, of other rights, obligations, interests acquired under the law;
- registration of the property right over land, of other rights, obligations, interests and thereby the enforcement of the rights protection mechanism.

The application of these three important issues has meant the creation of premises and the opening the way to solving a reformed social and economic conceptual problem - the implementation of market land relations. Obviously, in order to solve these problems, in order to organize and mobilize society, a number of regulations and instructions are developed based on the Land Code. It is also important to note that the rules of law are developing together with the society.

3.3 Real Estate Registry

The right to land needs to be protected by the protective mechanism [5]. Practice showed that the right of the subject to the land is not guaranteed only through the mere declaration of a right, by establishing the boundaries in nature and the release of the legal document. The world practice also proved the major positive role of the right registration process, of the rights registry in the law protection, of the credibility of the law in the formation of protected land relations.

In different countries, the rights registration process has different content, depending on the country's priorities. Thus, in France, the registered right is demanded by credit-banking policy, by other economic policies, including the fiscal policy. In Italy, registered right is required by the need to conduct real estate transactions. The obligation to register land rights is an objective necessity for the implementation of the fiscal policy based on the market value of land.

The contents of the registry also undergo changes motivated by social needs. Thus, the development of economic policies requires more and more information that would describe the object's particularities, the value of the object, etc. An important role is played by the Land Registry in the process of monitoring the situation of land relations. The Land Registry becomes the main source of information on land relations in dynamics.

The Real Estate Registry has been implemented as a need to protect property rights [6]. At the implementation stage, the primary purpose of the Real Estate Register was the protection of land rights. After the registration of land rights, other functions of the Registry appeared: land market development, the implementation of economic policies, etc.

A negative element of the Cadastral Registry System in the Republic of Moldova is the depreciation of the Land Registry. The lack of the Land Registry has a negative impact on the implementation of specialized cadastre (agricultural, forestry, water, etc.). The lack of specialized cadastrals means that the respective areas lack stimulating information in their development.

The analysis of the contents of the Real Estate Registry in the Republic of Moldova demonstrates its informational inability to answer the questions asked by the society: guaranteed protection of the rights; the possibility of restoring rights; the possibility of the cadastre implementation; the possibility of implementing new social, economic, environmental and future policies.

According to the practice of other countries that have achieved success in the field of cadastral registry implementation, the Real Estate Registry implemented in the Republic of Moldova should have the function of a general register that would generate the development of other registers with functional content: land; specialty; localities (streets, etc.).

It is also necessary to develop the informational aspect of the law in the content of the Real Estate Registry in order to include other rights, obligations, priorities, current land (real estate) interests already existing and expected to be very important in the near future. It is necessary to mention the important role of the Cadastral Registry System in order to implement the new land relations imposed by the land reforms and even by social and economic reforms.

3.4 Market Land Relations

Market land relations are a modern form of the economy organization and functioning in which the price of land depends on the confrontation between supply and demand and represents a totality of sale-purchase relations generated by legal acts.

Within market land relations, the land market is an important mechanism of free expression of subjects in the process of transmitting-taking over rights to the object of

relationships. The free functioning of the land market justifies the necessity of the structural integrity of the land relations regulation process. For example, even on the free land market, the parties to the transaction will require protection in transactions through the registration process mechanisms. In this case we will also find rules of law that will force the parties to record the transaction, etc.

The integrity of the Land Relations Regulatory System structures is an important principle, which will then be fully demonstrated in the process of implementing the methods of land relations regulation. It is important to correctly determine the role of the land market in the process of regulating land relations. First of all, the land market is the free expression of demand and supply and thus it has objective content. At the same time, market objectivity is a derivative of the legislative framework, i.e. it is as objective and free as the law permits.

In this context, some subjects are limited on the market (such as foreigners' rights to agricultural land), others are free. The land market of the Republic of Moldova is relatively young. The right to sell land according to the legislation was introduced after the adoption of the Land Code on January 1, 1992. The right to agricultural land appeared even later under Law 1308 of 25 July 1997 on the Normative Price and the way of sale - purchase [4].

Of the above mentioned, we can conclude that the land market represents an area in which all the relations generated by the holders of the legal documents on the land are manifested. The land market includes the regulation of both land ownership and land use relationships. The land market can exist only under the conditions of the property right guarantee. Thus, the right to property, the property protection mechanism expressed through the Land Registry are also required by the land market.

Land privatization has had a positive effect on boosting the development of the land market, especially of the agricultural land. The development and implementation of land consolidation projects is directly related to the development of the land market [7]. The agricultural land market, where the sale and purchase of land has a major share, is an important mechanism for the development of the agrarian economy, for the economy of the country as a whole.

In this context, the main purpose of the land market is to allocate land for agriculture, by the sale-purchase process, to the most rational segment of the society, to the most competent landowners. Only in such conditions we can expect major results in the production process.

The agricultural land market plays an important role in rural development, representing an important indicator of investments in rural development, it makes structural changes in rural areas where agricultural production is low. There can be identified other land use alternatives such as agri-tourism, and thus new jobs can be created, the infrastructure will develop and agricultural land markets will keep people in rural areas and improve demographic development [2].

At the initial stage of the social and economic reforms promoted in Moldova, land sale and purchase, including land for agriculture, was regarded as one of the most important reforming elements. The attention to the social, economic and legal aspects of land sale and purchase is not accidental. The free implementation of land sale and purchase mechanism, especially of agricultural land, can have a positive and negative impact on the agricultural economy, on the society as a whole.

The agricultural land market, where the sale of agricultural land has a major share, is an important mechanism for the development of the agrarian economy, for the economy of the country as a whole [3]. During the last ten years, the land market has had an essential development. Only during the year 2016 92227 land plots with a total area of 49347 ha were sold and purchased in the republic, of which approximately 47310 ha are for agricultural use.

Based on the cadastral data accumulated at the territorial cadastral office, a more extensive information on the development of the land market over the last 8 years is presented in the following table (Table 1).

Table 1. The dynamics of agricultural land sale and purchase

Indicator	Analysis period							
	2009	2010	2011	2012	2013	2014	2015	2016
Total land	121896	78192	81310	78971	81699	84715	85873	92227
Including agricultural land	111420	67331	71035	69814	72641	75941	77458	84208

Source: *Elaborated by the author based on the data of the Real Estate Registry*

The infrastructure of the land market has an important role in its development. Land transactions and the parties involved in the transactions are registered in the Real Estate Registry and are under the protection of the law. We have all the premises for a developed land market. In this respect, the freedom of transactions, their transparency, the registration procedure in the Real Estate Registry, the protection of transactions, etc. present few conceptual problems.

The problems arise where, at first sight, respect for the constitutional rights of citizens in land sale and purchase relations actually brings or creates the premises of a negative impact on the agricultural economy, on the country's economy, on the a whole society. What are these contradictory aspects in current land relations? The most discussed issues related to land sale and purchase are:

- the concentration of large areas of land for agriculture, by sale-purchase, owned by a limited number of people;
- the sale / purchase of land for agriculture to foreigners;
- the influence of the sale and purchase of land for agriculture on the demographic situation in the country's rural area.

These issues are related to the content of land relations and are the result of the lack of a legal framework (land code) appropriate to the post-privatization situation.

The current situation. After an excessive parceling of agricultural land produced by land privatization, land consolidation is a positive process, oriented towards the optimization of the dimensions, application of advanced technologies and ultimately raising the level of living in the rural sector of the republic. In this context, land sale and purchase, along with land exchange, are recognized as the main ways to solve the problem.

Practice shows us the following:

- the majority of the population in the rural sector is of an advanced age and cannot independently work agricultural land;
- people who, by their age, could work the land, do not have the necessary financial means;
- in the conditions of a lack of competition, the owners of agricultural land become persons with access to financial means;
- agricultural land is concentrated in the ownership of a small number of people, most of them living in urban areas.

If we accept the practice of the European Union for the dynamic development of rural area, it will be necessary, as a matter of urgency, to restrict the sale and purchase of agricultural land in rural areas, to limit the maximum areas of an agricultural property. Other scientific studies are needed for this.

4. Conclusions

1. The content of the Land Relations Regulatory System is influenced by the object and subject of land relations. At the same time, the society, through its state structures, also has a significant influence both on the formation of the structure of the land relations and on the Regulatory System.

2. The Republic of Moldova, at the present stage, is confronted with the whole spectrum of problems: legal, economic, ecological ones. In this context, a series of legislative acts, economic policies, strategies based on the regulation of land relations will be implemented or modified.

3. The process of regulating land relations is based on the concept of systemic actions and includes an institutional system operating within a legal system. It applies a system of registers in order to successfully use the system of regulatory methods (methodologies). Another structure in the regulatory process may be less effective.

4. The institutional structure within the land relations regulation process is very important and responsible for monitoring the process and for the development of effective measures.

5. The Registry System has the basic function in the Land Relations Regulation System to record and protect legal relations. At present, the legal relations have far outstripped those in the Real Estate Registry and in other registers that register rights. In the created situation the protection of the law is becoming weaker, the Register - less credible. Urgent changes in the contents of the Real Estate Registry are required.

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