THE MARKET LAND LIBERALISATION IN ROMANIA ECONOMIC, SOCIAL, LEGAL AND POLITICAL IMPLICATIONS

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Motto:
No slavery is more shameful than the one offered willingly.
Seneca Lucius Annaeus

The concept of the Internal Market designates an area without internal frontiers (Art. 7A of SEA-Single European Act), where the four freedoms are fully insured : free movement of goods, free movement of persons, free movement of services and free movement of capital, in accordance with the Treaty of the European Union. The measures destined to the creation of the internal market stipulated achieving this objective by 31 December 1992. The Internal Market concept is relatively new, the term used until 1985 being Common Market, whose objective was the elimination of all barriers for the community exchanges, to merge national markets in a single market, whose conditions should have been closer to those of a single national markets. In specific, the terms as European internal market and the single European market are used to specify the same thing –a large continental market- governed by unique rules established at Community level and characterized by the existence of the four freedoms.

European Common Market represents from the perspective of integration, the prospect of a European Internal Market preparatory phase where the governing rules were not yet sufficiently harmonized and its functionality was not guided by common rules- production factors, goods or services.

The four liberties - constitute the foundation of the Great European single market. A market can be considered unified when there is total free movement of goods, services, capital and people. These are the four fundamental freedoms that everyone could benefit of , after

1993. The Single Market is a unified market, as a result of the integration of all markets, as the market for goods and services as well as the factors market and the competition rules. The creation of a common market which subsequently became a single market, meant the first step towards the European Economic Union.

European Economic Union begins to function as a separate unit at the same time with the establishment of the unified market on a continental scale, that was accompanied by common policies and policies that were meant to make corrections. The creation of the market was scheduled carefully aiming to apply the four freedoms: freedom of movement of goods, freedom of movement of services,freedom of movement for the capital and people. For this objective it was allocated 12 years. The same issue is taken up by the Single European Act (SEA) up to a very precise date of realization.

Single European Act (SEA) states that ,, the community will take all reasonable steps designed to put in place the internal market progressively over a period that will expire on 31 December 1992 . Following the Single Act terms ,, internal market represents an area without internal frontiers in which the free mvement of goods, services, people and capital are provided under the provisions of this Treaty'' (Article 8A of the SEA).

The Single Market could not be achieved without the Common Market. The result would be the fact that both treaties are incoroprating the same objective, but at a distance of 30 years. This distance of 30 years may be related to the following conditions: for a long period of time, the process of integration has stagnated or was very slow, the constitution of the Common Market has passed from the enthusiasm phase- specific to her early years to the a more pessimist phase related to the mid 80s of the last century; in this last specific period, the economic environment has changed, which involved reviewing the Treaty of Rome involving a reformulation of the original objective that was stipulated in the initial treaty. The difficulties of the 70s of the 20th century regarding the line of integration led to the necessity to relaunch the community dynamics that could not be realized only by switching to the single European market which means a depth of integration in a vertical plan.

The European Single Market is an extremely complicated legal system and it is essentially the representation of Community acquis on the economic plan. To build the legal base of the Single Market legal, two methods were used:

- Harmonization
- Mutual recognition.

Although very different the two terms presented above, they are often confused. Speaking of harmonization or even homogenization in relation to the Community legislation, harmonization is required when national resources are so varied that European unification is required. Therefore, the text creates piece by piece, a body of common rules. This way, the most difficult way, was adopted for certain technical norms.

Mutual recognition is the simplest and most commonly used method. Member States have committed to recognize as valid, the rule that other countries apply. This was a method used for diplomas in certain cases. The creation of the internal market was relying also on the principle of subsidiary. Its meaning is simple: each subject should be treated in the most effective way and the Community should not treat only the areas where European echelon is better placed. National states retain the essence of their competences.

Agriculture and national sovereignty

Through the Treaty of Accession to the European Union (EU), Romania is obliged to liberalize the land market for individuals in the EU from January 1st 2014, which will amend the existing regime, in which the only legal persons had the right to buy land.

As per the Treaty of Accession to the EU, Romania engaged itself to liberalize the land market starting with January 1st 2014, so therefore foreigners, European Union individuals could buy without any restrictions agricultural land.

The European Union is an organizational formula for the relations between the European countries. Formulas come and go, people remain and that is the reason why is better that this formula to be evaluated realistic and not from a mythic point of view or by having it examined more than it could express in every moment of evolution. The land sale to foreign nationals will establish the country's total dependence on foreign countries. In this changed political context, how will the lands be recovered from foreigners? State sovereignty effect is reduced not only on those with dual citizenship but also on the part of the national territory bought by foreigners. What kind of country is this that has no sovereignty over its own citizens and the entire territory?

Current liberalization of agricultural markets raises questions both to the developed countries, who want to protect the population that integrated in this sector of activity- but especially to the less developed countries whose unsubsidized farmers manage with difficulty to face the competition coming from the subsidized products of developed countries. Developed countries (EU), although with a small part of the population integrated in the domain of agriculture, but with high productivity that is also subsidized in proportions up to 50% grain production, livestock, animal sector. US subsidizes with 50% including cotton product for a production of cotton of 40.000 tones for 2004, creating great difficulties to the farmers deprived of subsidies from less developed countries.

The feeding of large populations will raise special problems of agriculture and farmland. Its value will increase particularly in the next half century. Who will have good land will be rich. Agricultural land will become more expensive than gold.

In order to restrict agricultural land transactions, the Ministry of Agriculture initiated a bill that was approved by the Parliament on December 17th 2013 but it has been amended and suffered some modifications, one of the changes aiming to eliminate the preemption right for young people up to 40 years. Thus the sale of land outside the city, from 2014, the owners may sell land outside the city while respecting the right of preemption to co-owners, tenants, neighbors, individuals and the Romanian state. The law also stipulates the establishment of the Administration and Regulation Authority of the land market, which will take over operations, staff and assets of the Domain of the State and it will pass under the subordinate of the prime minister. According to the Alliance RO CAP, the bill referring to the sale and purchase of agricultural land by foreigners proposed the Ministry of Agriculture has a character of land expropriation, aiming for a more energetic purpose in the favor of European speculators.

Foreigners already posses in Romania, through their set-up companies, between 1 and 1.2 million hectares, but so far I have not seen foreigners working these areas. The same Romanian farmers are taking care and work these lands and they only remain with the subvention coming from the EU. Neither the land production is moving towards the farming circuit, but it is destined to be transferred to the energetic cultures. (...) After the law is applied, we will have the opportunity to see the real disaster that is happening in the land market in Romania, shows the president of the RO CAP, Claudiu Franc, president of Cattle Breeders Federation of Romania. On the other hand, the MARD representatives consider that this law aims the merging of agricultural land so it would grow the dimension of the agricultural farms and the creation of the economically viable exploitations, while the middle class of agriculture was not sustained in the last years.

Today, 11,000 farmers that have more than 30 hectares, hold in total 4.5 million acres and take half of the subsidies, while 800,000 farmers have between 1 and 5 hectares. According to MARD data from the year 2011, foreign-owned agricultural land in Romania at the end of 2011 amounts to over 700,000 hectares, representing 8.5% of the arable land of Romania, although Anecdotal RGA in 2010, IS has announced that just 470,000 hectares are being held by foreigners. In a ranking list of buyers of land in Romania, Italy is ranked first with 24.29%, followed by Germany with 15.48% and 9.98% by the Arab countries. However, Hungary holds 8.17% of the more than 700,000 hectares of agricultural land bought in Romania, Spain (6.22%), Austria (6.13%), Denmark (4.52%), Greece and the Netherlands by 2 4% and 0.78% Turkey.

Currently, in Romania, the price for one hectare of agricultural land can go from 2,000 euro and can reach up to 18,000 euro, but if the irrigation system would be restored, the price will increase considerably and will reach the price range established in other EU countries, over 30.000 euro. Romania has 13,298,000 hectares of agricultural land, of which nearly 9 million hectares is represented by arable land.

Romanian land market was liberalized in 2014. Here is an exemplification of how other European countries took action in the same situation. Poland has limited the purchasing of land that is 100 kilometers of the border, and in France it is stated that the owner cannot do what he wants with the field, because it is considered part of the national heritage.

The Bulgarian parliament voted to extend until 2020 the forbiddance of selling agricultural land to foreigners. The European Commission has warned that it is a violation of international commitments of Bulgaria and Sofia and that it could be liable to financial penalties. In order to join the EU in 2007, Bulgaria has amended its Constitution, lifting the ban imposed to foreigners to acquire agricultural land. A moratorium that expires on January 1st 2014 was introduced and the ministers have however decided to extend the term until 1 January 2020, a decision that contravenes, according to experts, to the EU accession treaty.

The Ukrainian Parliament has decided in November 2012, to extend the interdiction in regards to the sale of agricultural land until January 1, 2016. Ukraine has an agricultural area of over 41.6 million hectares, of which arable land is 32.48 million hectares. About 7 million plots are owned by individuals. The ban imposed on the sale of agricultural land in Ukraine existed since 1996 and was supposed to expire on 1 January 2013.

In Hungary, the new European rules in regards to the sale of agricultural land without restrictions may be applied as of June 15th 2014, but the Hungarian government tries to protect their agricultural land through some drastic measures. Therefore, the people from Hungary which are found to be involved in the sale of Hungarian agricultural land to foreigners shall be liable to up to 5 years in prison, said Gyula Budai, State Secretary in the Ministry of Regional Development in Hungary.

„Agricultural land will be owned by Hungarians" said the Prime Minister Viktor Orban, after signing an agreement in Budapest. The Hungarian government decided, starting with April, to offer to lease 200,000 hectares of arable land to farmers through a new program that applies to land parcels that are currently leased and are under contract until 31 May 2017. The purpose of the program is to strengthen family farms as well as small and medium farms. Hungary intends to reduce the share of large farms to 20 percent of total arable land, compared to the 50% share as per present time. Through these measures, the Hungarian legislation seeks to protect agriculture fro speculations and foreign capital. It is believed that up to one million hectares of farmland from Hungary were sold to strangers.

In conclusion, although the current century gives us the opportunity to live and experience the meaning and the values of freedom in the most various ways, returning to local values is perhaps one of the most necessary changes that society must embrace. In many less developed countries, the power of the most developed countries freedom to purchase land can be associated to a beautiful mirage that is hiding a bag of tears, because land expropriations will only lead to increasing the disparities between the rich and poor.

Bibliography

1. Nicoleta Diaconu, Dumitru Adrian Crăciunescu, Dreptul Uniunii Europene privind politicile economice, Ed. Universul Juridic, București 2010, p. 121-129.
2. Traian Ionașcu, Drept Civil- Bunuri I, Tipografia Universității, București, p. 36-43.
3. Constantin Stătescu, Corneu Bîrsan, Drept civil- teoria generală a drepturilor reale, București 1980, p.30-41.
4. Marin voicu, Mihaea Popracă, dreptul de proprietate și alte drepturi reale, Ed. Lumina Lex București, 2002, p. 200-209
5. Eco-Economia și dezvoltarea durabilă- Conferință internațională a AOSR, Vrașov 2013, p. 377-390