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## **LEGAL STATUS, ROLE AND IMPORTANCE OF AGRICULTURAL COOPERATIVES IN SERBIA AND IN THE EUROPEAN UNION**

**Summary:** Agricultural cooperatives are very important model of functioning of agricultural production, which has been known from ancient times. Since the creation of the first forms of cooperatives, to this day, interest in co-operatives and their work culminated in a period of great economic crisis, when (again) the advantages of cooperatives and their potential was "revealed". The links between cooperatives and rural development is highly important as the cooperatives contribute to the regional economy and to public policy objectives with an aim to improve the rural competitiveness and environmental sustainability. Development and improvement of agricultural cooperatives in Serbia and throughout the developing world is a very important practical task that is based in respect of the principle of agricultural cooperatives and set standards of the European Union and the International Cooperative Alliance – ICA, in which establishment is involved the Association of Serbian agricultural cooperatives together with other national associations in London. This paper reviews the importance and role of cooperatives in modern agriculture, as well as basic principles of their operation. The status of agricultural cooperatives in the Republic of Serbia and the EU level are subject to discussion and analysis that follows.

**Key words:** cooperative, agriculture, Cooperatives Act, European Union

### **Introduction**

Agricultural production has been, since the establishment of the first human communities, the practical fundament of the development and survival of the human society. From the earliest times, a man perfected, through agriculture, the way of production that nurtured him, in the beginning, with the food necessary for his survival. Later, with the development of trade and market relationships, agriculture became the activity through which a man makes his revenue. Therefore, the ways of

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organising agriculture and agricultural production have changed proportionally to the degree of development of the human society, but also proportionally to the possibilities of applying technical measures that can significantly influence the results of that production and the achieved yields. Modern processes used in agricultural production are significantly different from those used in the primitive agricultural production. But the basic difference lies in organisation and methods used, as well as in the production techniques.

Observing the development of agriculture in our country, and particularly analysing in during the Socialist era, we will see that it moved through the processes of individual and social progress from the form of agricultural cooperatives in the first phases of the development of the Socialist agricultural production, to big combines or individual farms in later periods.

Although, from one side, the individual agricultural production managed to develop significantly in certain areas to the level of world class achievements, until today the basic form of agricultural development and the connection of small country farms with industry has been an agricultural cooperative. The modern conditions and circumstances in life and work influenced significantly the ways the farmers appear in the market so they have adjusted and adapted their business to the today's conditions in agricultural business, which are mainly based upon market performance and work through agricultural cooperatives.

The development, great significance and the role of agricultural cooperatives in today's modern agriculture, the basic principles of their operation, status and regulation of their operations in the Republic of Serbia and the EU level are subject to discussion and analysis that follows.

## **The definition of agricultural cooperative and the types of cooperatives**

The development of agricultural cooperatives as a means of organised appearance of farmers in the market has evolved together with the development of agriculture itself and the agriculture production. What are agricultural cooperatives? Agricultural cooperatives are *voluntary unions of cooperants who achieve economical interest by joint business or improve their socio-economic status and individually take decisions concerning common issues*. They have become recognizable only in recent times when they have started to work as specialised or composite cooperatives, but also within cooperative associations. According to the Article 1 of the Cooperatives Act, *a cooperative is in fact a form of organizing (natural) persons (in further text: the cooperants) in which they, doing business in accord with the cooperative principles of voluntariness and solidarity, democracy, economical participation, equal rights of ownership and management, independence, achieve their economic, social and cultural interests.*<sup>1</sup> *Cooperatives are established as agricultural – general purpose cooperatives and specialised cooperatives (for production or*

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<sup>1</sup> Article 1, Cooperatives Act, ("FR Yugoslavia Off. Gazette", No 41/96, 12/98 and "Republic of Serbia Off. Gazette" No 101/2005 – and 34/2006)

*growing of wheat, fruits, wine, beet, cattle, honey, for domestic craft etc.), construction cooperatives, customers cooperatives, craftsmen, health, youth, student or pupils cooperatives, as well as some other types of cooperatives for the production and trade of goods and services, in accord with this Act.*<sup>2</sup>

The focus will be on agricultural cooperatives which *organise agricultural production in cooperative farms, they produce, process and sell agricultural products, food and other products of the cooperants, they distribute their cooperant the material needed for their work, reproductive material, fuel, production tools, spare parts for the agriculture vehicles, as well as other goods. They trade with the goods made by the cooperants and trade with the goods for the cooperants and they organise savings and credit lines in the cooperative.*<sup>3</sup>

A cooperative is an individual organisation of cooperants established by them and managed by their property. It is an open organisation and it can receive all the new cooperants and it is a voluntary organisation, since the admission and withdrawal are entirely dependent on the will of the cooperants. The cooperants are equal no matter how big they are and irrespective of their share and every cooperant has one vote in the cooperative assembly.

The Cooperatives Act also defines some classifications of cooperatives according to which the cooperatives can be classified according to the type of their activity: they can be agricultural, general purpose cooperatives and specialised cooperatives (for production or growing of wheat, fruits, wine, beet, cattle, honey, for domestic craft etc.), construction cooperatives, customers cooperatives, craftsmen, health, youth, student or pupils cooperatives, as well as some other types of cooperatives for the production and trade of goods and services, in accord with this Act. On the other hand, there are some other classifications based on the purpose of the cooperative. According to that criterion, cooperatives might be profit-orientated, which are logically established with an objective to make the maximum profit, and non-profit orientated, where we see basically the principle of mutual help and solidarity, with a mere paying for the real expenses. The establishment of cooperatives is also a question that is treated carefully so a cooperative may be established with passing the Establishment Act. The Establishment Act is in fact the Contract of Establishment which has specially predefined content.

## **The rise and importance of agricultural cooperatives in the development of agriculture in Serbia**

Cooperatives as a way of doing business in agriculture has a long historical tradition and passed through many different phases. In different periods of its development cooperatives went through different rises and falls in both organisational and material sense. This way of functioning was frequently challenged and suppres-

<sup>2</sup> Article 2, Cooperatives Act, ("FR Yugoslavia Off. Gazette ", No 41/96, 12/98 and ""Republic of Serbia Off. Gazette " No 101/2005 – and 34/2006)

<sup>3</sup> Article 3, Cooperatives Act, ("FR Yugoslavia Off. Gazette ", No 41/96, 12/98 and ""Republic of Serbia Off. Gazette " No. 101/2005 – and 34/2006)

sed, but also, on the contrary, it was glorified and forced. It depended largely upon the socio-political environment and the current situation in the country. Apart from the significant results, cooperatives have not reached the heights that had been expected in this region and therefore has not reached the results that would improve the agricultural sector and contribute the economy of our country.

The formation of cooperatives is linked to the ancient forms of so-called collective housefarms or house cooperatives that were based upon the bloodline relationships among the members and of course, upon the common property. This type of cooperatives was dominant for thousand of years and it existed within the Old Slavic homeland, the Old Germanic lands and other Barbaric peoples of Northern Europe and it is considered that it still exists in our country and some neighbouring countries in a slightly different form. As opposed to the house cooperatives, which were based on the principles of self-deficiency and settling of all the cooperative's members, a market form of cooperative, so-called *collegium* appeared in the Ancient Rome. They were established by small manufacturers. With the rise of capitalism, we witnessed the change the role and position of this market form of agricultural cooperative since the capitalism changed the traditional old role of country agricultural production and accelerates the market economy and the commodity-monetary relations. That is the way to introduce significant changes into the way of agricultural production and there is a strong influence on further development of agricultural cooperatives which require further financial investments for their functioning in new circumstances (Kostov, 2006:5-7).

The path of development of agricultural cooperatives in Serbia lasts for almost two centuries. On its path of development, agricultural cooperatives have passed from traditional organisations with their traditional bloodlines organisational structure to the organisational experiments whose effects can be felt today. Looking through the history, the development of agricultural cooperatives in Serbia moved through several stages. The first phase of development was present in the period between the appearance of the first cooperative to the mid-1940s (characterised by the appearance of the first forms of association with elements of agricultural credit cooperatives, as well as the establishment of the first credit cooperatives. The first cooperatives in Serbia were established in 1894 in the village of Vranovo near Smederevo. The next year the Association of Serbian agricultural cooperatives was founded and together with other national associations it took part in the founding of the International Cooperative Alliance - ICA, in London, UK, in 1895. Three years later the first Law was adopted to regulate this area. By 1900, founded there were more than 650 craft and agricultural cooperatives founded throughout Serbia. In the 1930s the youth and student unions and cooperatives began to be formed.

The second stage in the development of agricultural cooperatives in Serbia refers to the period from 1945 to the end of the 1980s, and is specific for its link with the "Socialist transformation of agriculture" in order to prevent the "strengthening of capitalist elements" in agriculture and the countryside. During this period in our country so-called *rural labour cooperatives* (Serbian short form: SRZ) were formed and were functioning. They were modelled on the Soviet *kolkhoz* model with elements of forced collectivisation of peasants. The other type were the *general agri-*

*cultural cooperatives* (Serbian short form: OZZ) with the idea that farmers should be included, through various forms of cooperation, in the implementation of a formal model of "socialist reconstruction of agriculture". Yet another type was *basic organization of subcontractors* (Serbian short form: OOK) which is a "metamorphosed" primary cooperative organization (OZZ). There were also *agricultural cooperatives* (ZZ) integrated in the (national) agricultural conglomerate; and *reactivated agricultural cooperatives*...

The third phase in the development of agricultural cooperatives - from the early 1990s until the end of the first decade of the 21st century is a kind of "post-ZUR"<sup>4</sup> partial revitalisation of agricultural cooperatives, which overlaps with the early stages of post-Socialist transition in Serbian agriculture. The main characteristic of this phase is a missed opportunity of reaffirming genuine cooperatives as the most massive form of association of small and medium-sized farmers, particularly the promotion of "cooperative model" association of people who are in the process of privatisation, who are jobless, and have certain arable land in their property in the countryside and were encouraged to by their "severance pay" to form cooperatives.

Today's agriculture in Serbia is characterised by three basic types of business entities: agricultural enterprises (Serbian abbreviation: PP), individual farmers (Serbian abbreviation: IPG) and cooperatives (Serbian abbreviation: ZZ). Agricultural cooperatives are the largest cooperatives in Serbia – there are 1,585 cooperatives or 66.6% of the total of 2,381 cooperatives of all types (Agencija za privredne registre, 2011). They form about 80% of the total of 6,292 employees in all types of cooperatives, and generate about 86% of the total income of the cooperative sector in Serbia. Agricultural cooperatives that are classified in section A (Agriculture, hunting and forestry) generate more than 80% of the total gross income of all cooperatives.

We must point out that in practice of cooperatives in Serbia, we can classify agricultural cooperatives, according to the time of establishment, into two groups (old and new) - with more sub-groups that have their own distinctive characteristics. The old collective farms were established in the period until the end of 2000, when the first phase of post-socialist transition of the economy in Serbia was completed. They had lost their previous dominant significance account for about 35% of the total number of agricultural cooperatives. Unlike them, the new cooperatives were established in 2001 and in subsequent years of the transition of the Serbian economy and they are the dominant type of cooperatives (902 cooperatives or 65.2%) in the total number of agricultural cooperatives.

Among them we distinguish *donated cooperatives* (already existing cooperatives) and *donor cooperatives* (newly established cooperatives); *family cooperatives* - whose members are from the same extended family and they operate as a "kindred-enterprise partnerships *directors* – which were formed by the future directors as holders of a cooperative process with the collected statements of their loyal co-founders, both of these subgroups are also called "*private*". The last cooperatives are called *new market-orientated*, mainly *specialised cooperatives*, formed by farmers

<sup>4</sup> Serbian-English expression roughly translated as „post-United Labour Act“. United Labour Act was a famous Yugoslav Socialist law that prescribed the modalities of doing legal business in SRFY. ZUR is an abbreviation for the Serbian name of the Act: Zakon o Udruženom Radu.

who possess entrepreneurial culture, mainly operating on the international cooperative values and principles. They have professional managers and represent the preferred basis for the reaffirmation of not only agricultural cooperatives, but also the entire cooperative organising in all economic and non-economic activities in the territory of Serbia (Ševarlić, Zakić, 2012: 5-10).

Looking at the role of cooperatives in the functioning of agricultural production in our country, we must bear in mind that this form of organised agricultural activities is characterised by the best mechanism for establishing direct links between agricultural producers and cooperatives in the market and, as such, have great potential for stimulating rural and local economic development. On the other hand, by encouraging rural and local economic development, cooperatives are on the right track to revive agriculture which is, we must admit, quite underdeveloped and backward in our country in comparison to some other countries of Europe and the world. Cooperatives in Serbia today, as eminently suitable form of organisation of family farms, unfortunately did not become true organisations that operate in the interests of the peasants but the organisations of the workers employed in them. This image was also transferred to the cooperative guilds that do not have the personnel or even other qualities that promote the co-operative organisation and accelerate the reform of the existing cooperatives according to the internationally established cooperative principles. The state's failure to act in application of existing laws and the unwillingness or obstruction to the passing of new cooperative law greatly contributed to this state (Vlahović, Tomić, Ovčiničkov, 2012:149).

Given the fact that cooperatives give manufacturers greater opportunities to gain the additional value, and increase their revenue and security, the development of this form of organisation of agricultural production and agricultural activities would be very desirable in our country. The development of cooperatives in agriculture in this way will lead to increasing investment in agriculture and reducing migration from country to cities. The benefits are great and the state is the one who has to make the first step to this, so that this sector, which is primary agricultural sector in Serbia, would eventually get adequately regulated and organised.

Therefore, the Republic of Serbia has recognised, in one moment, the need to legally regulate this type of organised agriculture production and adopt the law that defines and determines the status and role of agricultural cooperatives in the Republic of Serbia in order to make their functioning and operation synchronous and analogous with the regulations at the level of the European Union. The legislative regulation of the status and role of agricultural cooperatives in Serbia and later in the European Union will be discussed in more detail in the section of the text before us.

### **The legal position and the significance of cooperatives in the Republic of Serbia**

As previously noted, the legal status of agricultural cooperatives in Serbia is regulated by the Cooperatives Act (also known as Law on Cooperatives) of the Republic of Serbia, which clearly define the term, and regulates the establishment of agricultural cooperatives, the Cooperatives Activity, acquisition and termination of

the cooperant status, cooperative management, property issues and the termination of the cooperative, the performance of cooperative audits, as well as other issues of importance for the functioning of cooperatives. Cooperatives in the Republic of Serbia are obliged to harmonise their work with the Cooperatives Act. The next section presents the most important underlying provisions of the agricultural cooperatives, or issues related to the cooperative principles and values, governance in cooperatives, cooperative property, as well as the establishment and termination of the cooperative. Through the following sections we will look at the basics of the legal status of cooperatives in the Republic of Serbia.

According to the Cooperatives Act of the Republic of Serbia ("Official Gazette", Nos. 41/96, 12/98 and "Official Gazette of RS", no. 101/2005 - and 34/2006), cooperatives are (in our right), in fact, legal entities participating in legal transactions, acting on its own behalf and for its own account, or in the name and on behalf of its members. The provisions of Sections 1, 2 and 3 of the Cooperatives Act determine their legal definition and determine their legal status, while their functioning within the legal system of the Republic of Serbia will be further explained. In addition, all of the previous Cooperatives Acts in the Republic of Serbia defined a cooperative based on the current definitions of the International Cooperative Alliance (ICA). This definition emphasizes the voluntary nature of association, democracy in governance and the wide scope of interests and functions of cooperatives which is seen not only through the economic but also through the social and cultural needs (Ministarstvo poljoprivrede, šumarstva i vodoprivrede Republike Srpske, 2011:24).

In accordance with the recommendations, guidelines and regulations of the International Cooperative Alliance, the principles and operation of agricultural cooperatives are defined. They represent one of the most important starting points for each operation, as well as starting a cooperative. These principles will become especially important in the forthcoming period when the cooperants or farmers will have to adapt to demanding standards and principles of operation of cooperatives in the EU as a common market in which cooperatives will come forward with their products. In addition, cooperatives are based on economic interests, it means they have to worry about the productivity of their manufacture or the production of its members, and this cannot be achieved without respect for the principles of the functioning (Ministarstvo poljoprivrede, šumarstva i vodoprivrede Republike Srpske, 2011:26).

The specificity of agriculture cooperatives and other cooperatives that exist in our legal system, according to the Cooperatives Act, is that each cooperative in legal transactions is legally responsible with its entire property while there are other situations where the obligations that cannot be settled from the assets from the assets of the cooperative corresponding members. In this case, which, however, rarely happens, the cooperative members will respond jointly and with solidarity and at least with the amount of their share, when the Memorandum of Association or cooperative rules does not stipulate that they should correspond to a higher average<sup>5</sup>.

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<sup>5</sup> See Articles 5,6 and 7 Cooperatives Act, ("Official Gazette of FRY", No 41/96, 12/98 and " Off. Gazette of the „Republic of Serbia“ No. 101/2005 –and 34/2006)

Viewed from a legal point of view, the cooperative is a legal entity and as such cannot be organised as a company or other form of organisation, nor can it be attached or connected to a company or other legal entity that is not a cooperative. The cooperative as a legal entity has its own legal, economic and organisational independence and the attributes of a legal entity and may be a bearer of rights and obligations in legal transactions. It cannot be organised as a company or other form of organisation, but it is organised by a special process and it operates on a special "cooperative principles". That's why it is considered an an organisation "sui generis", i.e. organisation of a special kind. For the time being, the cooperative cannot be acquired or merged with other neither companies nor legal entities that are not companies (Vasić, 1998:19).

The Cooperatives Act legally regulates the issues of establishing cooperative so according to the provisions of Art. 9 of this law, agricultural cooperatives can be established by at least ten workers and other individuals who have owned land or used land by some other basis, or used any facilities or equipment for work in agriculture where it was made compulsory to make the foundation agreement in writing, as a founding act to be signed by founders of the cooperative.

The Cooperatives Act regulates the content of the founding act as a very important issue and a matter of law, because this act clearly defines how the general legal issue should be treated, ranging from the name and location of the cooperative, the names, occupations and addresses of the founders, the name of the person who will perform the duties of temporary executive body and the very important issues related to Cooperatives Activities, such as the amounts of funds needed for the establishment of a cooperative manner and how to secure these funds, the issue of responsibility for the obligations of its member cooperants and of course all the other issues of importance for the establishment of cooperatives.<sup>6</sup>

A very important item in a legally valid functioning of agricultural cooperatives is passing of the (initial, founding) cooperative rules at the founding meeting where these rules are adopted and approved by a majority vote of the founder. At the founding meeting there will be held the election for the ruling body of the cooperative, unless the founders of the cooperative decide that the election of the cooperative should be performed within a specified period, but not later than 30 days from the date of the legal founding assembly. By entering into the court registry it is considered that the establishment of cooperatives is legally regulated and it is finally established, so the individuals - the founders of the cooperative, so-called co-operants, acquired the status of its members.

Questions of the co-operant's' status, the acquisition and cessation of its members' status are regulated by Articles 15-25 of the Cooperatives Act. According to the law, the status of its members can be acquired by the individuals who meet the requirements stated for founders and they can get the status if they require it and if they fill the access statement by which a signatory accepts their rights, obligations and responsibilities of its members, laid by the foundation agreement, or by coopera-

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<sup>6</sup> Art. 11 Cooperatives Act, ("FR Yugoslavia Off. Gazette ", No 41/96, 12/98 and ""Republic of Serbia Off. Gazette " No. 101/2005 – and 34/2006)



tive rules. When it comes to the termination of the status of its members, the status of its members shall cease by resignation, expulsion from the cooperative, the death of members or the dissolution of the collective farms and also the date of termination of the status of its members will terminate the rights and obligations of its members, with the exception of property rights and obligations established by the Memorandum of Association, the cooperative rules and the aforementioned Act.<sup>7</sup>

Like any organisation, cooperatives have a clearly defined organisational structure and management system defined by the cooperative members who have equal voting rights (one co-operant, one vote). The organisational structure of cooperatives consists of: the Assembly, Board of directors, Supervisory board and Director of the cooperative. In addition, Article 30 of the Cooperatives Act also provided that the President and Members of the Board, Director of the Cooperative, the President and Members of the Supervisory Board are all elected for the time specified by the cooperative rules, which may not be longer than five years, with the possibility of re-election.

Thus, in the work of all bodies participating cooperatives, all members have the opportunity to participate through the General Meeting by example in adopting cooperative rules, like the rule of the commercial policy of the cooperative, as well as to decide on status changes and termination of the cooperative or the adoption of development plans. On the other hand, by participation in the work of the board of the cooperative (the board is the body that all the cooperatives that consist of more than 20 members have, and they are made by five members from the cooperative), the cooperative members may implement the policies of the cooperatives or prepare draft decisions for the cooperative assembly and carry out the decisions of the Assembly. The members of the Supervisory Board are also elected among the cooperative members and primarily supervise the work of the Board and Director, as well as over the periodic and annual accounts, but also they determine whether these decisions are made in accordance with regulations.<sup>8</sup>

Unfortunately, thoughtful functioning and the desired capabilities of its members to participate in the work of the cooperative, in practice, do not function as desired. Although it can be concluded that the participation of the members of the cooperative in the activities of agricultural cooperatives is not satisfactory, especially considering the attitude of a large number of cooperative members in Serbia that they cannot be involved in making important decisions for the cooperative, it can be noticed that the co-operates in our agricultural cooperatives, according to their personal views, have a significant influence to the functioning of the cooperative.

However, although the presence of its members at meetings in agricultural cooperatives in Serbia cannot (reasonably) be evaluated as a positive, it should be noted that this is not the case only in our cooperatives. In fact, despite the need to motivate cooperative members to actively contribute to the work of cooperatives, farmers' cooperatives in the world also do not record a high attendance of their

<sup>7</sup> Further reading in: Article 15-25 Cooperatives Act, ("FR Yugoslavia Off. Gazette ", No 41/96, 12/98 and ""Republic of Serbia Off. Gazette " No. 101/2005 – and 34/2006)

<sup>8</sup> Further reading in: Articles 31-43 Cooperatives Act, ("FR Yugoslavia Off. Gazette ", No 41/96, 12/98 and "Republic of Serbia Off. Gazette " No. 101/2005 – and 34/2006)

members at meetings nor the willingness to participate in the governing bodies of the cooperatives. This participation is certainly desirable from the aspect of improving their status and their role in the functioning of cooperatives, since the participation of its members in the work of the cooperative may have a multi-point advantage, having in mind that the cooperants are in a position to express their views on the future business activities of agricultural cooperatives. Obviously, there are significant barriers to this scenario, which are primarily reflected in a reduced volume of business of agricultural cooperatives, the lack of capital for the expansion of existing and new start-ups and finally, the insufficient participation of its members in the work of the cooperative, which is manifested both in their involvement in the management of the cooperative, and in the absence of commitment, i.e. the maximum business for them is done exclusively *with* the cooperative and no further, not within it (Ševarlić, Kozenko, 2012:5-8).

Property issues of the cooperatives are also the questions that the Cooperatives Act legally regulates, and this issue requires special attention. According to the Art. 49 of the Act, the property consists of the cooperative ownership right over movable and immovable property, funds and securities (cooperative ownership) and other proprietary rights. Cooperative ownership is formed from a share of its members which have been transferred to the ownership of the cooperative or cooperative membership fees, funds generated from operations and the operations of the cooperative and the cooperative funds acquired by other means. In carrying out its activities, the cooperative uses cooperative property, and on the basis of other property rights it may be use and assets owned by the co-operants, as well as funds from other domestic and foreign legal entities and persons. The cooperative possesses its assets in the manner prescribed by law, the Articles of Association or cooperative rules if not stated otherwise.

The Act specifically regulates the issue of termination of the cooperative, so a cooperative ceases to exist if there is an imposed prohibition on activities because they do not meet the conditions for work, within the time specified in restricting it did not meet these conditions, or it did not change its activity. On the other hand, by merging with another cooperative, by the cooperative second merger or by a division of a cooperative into several new cooperatives, a cooperative also ceases to exist. In addition, the cooperative ceases to exist upon the expiration of the time for which it was established, or if there is a cessation of existence of the other natural conditions required for conducting a cooperative. Of course, in the Cooperative law of the Republic of Serbia, there are situations when a cooperative does not perform its activity for more than two consecutive years, or if it is declared bankrupt or if there is a cessation of cooperatives which exist in other cases stipulated by law.

In the previous part of this paper we considered briefly the basic settings and provisions governing the status and functioning of agricultural cooperatives in the Republic of Serbia. However, the mere statutory regulation is not enough to improve the functioning and complete arranging of things in this area. Therefore, the decision-makers in our country must start the realistic thinking about the agricultural cooperatives, they must focus and they must set the general guidelines and the legal principles for the cooperatives, based on the development of critical scientific review of

current professional development and assessment of the current situation in agricultural cooperatives, perceiving the necessities of association of farmers in cooperatives at both local and the national level. In addition, it is necessary to harmonise the legislation with the regulations, in terms of the cooperative law in neighboring countries, especially EU member states. It includes the inclusion of agricultural cooperatives in Serbia in the European integration process in order to adapt to the impacts of globalisation of agricultural production, which is the overall process which affects all areas of human living and working conditions. In addition, the adjustment of market liberalisation of agricultural and food products markets, as well as harmonisation reforms in the cooperative movement in general, and particularly in the agricultural sector of Serbia have to be made in order to meet the cooperative tendencies in Europe and, above all, to meet the tendencies the world needs. It is necessary to make it a priority and it is an indispensable component of the process of improving the functioning and the process of improving the role of agricultural cooperatives in agricultural activities in the country (Škorić, 2012:208).

In the part of the work that follows, the authors will briefly address the situation and the importance of cooperatives in the European Union, precisely with the objective to analyze the position of cooperatives in Serbia in regard to European Union.

### **European Union Common Agricultural Policy**

Agriculture is the activity in which the unified policy of the Union, central management and finance is present to a large extend during the last 50 years. Creation and implementation of Common Agricultural Policy (CAP) in European Union is the first successful attempt to practice common policy in different countries (Fennell, 1997). The importance of agriculture to the EU can be observed from several data that illustrate its role and place in the economy of this community. Agricultural and food industry provide over 15 million workplaces in the EU, accounting for 8.3% of all employed citizens of the Union. This is the average size for the entire EU, which varies significantly from one country to another. In the so-called "old" EU member states the average value is 4%, while in the "new" Member States over 12% of employees are engaged in agriculture and food industry. Agricultural production participates in the GDP of the European countries with 2-3%, but in countries such as Bulgaria and Romania it can amount to up to 10% of the national GDP. The total production value of the agricultural sector in 2008 was estimated at 635 billion EUR (European Commission, 2012).

The Common Agricultural Policy has been recognizing the important role of agricultural cooperatives for the rural EU and has been supportive in several ways. The Common Market Organisation of particular agricultural products has been crucial in enabling a more efficient coordination of the respective supply chains. It is important that the national and especially the European institutions keep learning and adjusting their policy instruments (European Commission, 2012b:14).

Fighting difficulties in Eurozone as a result of global crisis, next reform of the CAP that should be implemented from 2014 opens opportunity to use its budget in

next period (2014-2020) as a contribution to stronger fiscal discipline in member countries (Tangermann, 2011). Newest CAP reform continues trend to encourage and finance environmental protection projects, among other instruments with making one third of direct per-hectare payments directly connected with agricultural practices that are beneficial for the environment. It also aims to redistribute per-hectare payments from countries with currently higher payments to those who receive less stimulation, as well as distribution of funds more in favor of small farms in order to achieve better equity among producers (Adinolfi, Little, Massot, 2011). External factors strongly influence CAP reform process.

According to authors Žambor (Jambor) i Harvi (Harvey), there are four major institutional factors that have important impact to CAP:

- a) EU budget – main problem is financing of the Pillar 1 exclusively from the EU budget, in contrast to all other European policies, that are partly financed from national budgets of member countries. Also, there are voices that argue that there are other policies than agriculture that deserve more budget financing, such as common security, climate change or energy resources;
- b) WTO negotiations – external pressure regarding international trade in agricultural products and financing of domestic farming and production in EU has always been present;
- c) EU competition law and practice for regulation competition between member states – main problem is preventing member states to take advantage in financing domestic farmers at expense of the others Union members;
- d) Lisbon Treaty – as a result of this agreement, both EU and national parliaments have stronger and more direct control over common policies, including CAP (Jambor, Harvey, 2010:11-13).

## **Legal positions and the significance of the cooperatives in the European Union**

The European Union (EU) represents a totally new creation in international law and international relations, which differs from the classical international organisations for its elements of transnationality. Therefore, the EU regulations are the basis from which we need to derive the provisions of national legislations and with which they are reconciled, in all relevant areas of interest. One of the areas in which the European Union has achieved quite a lot and in the right way is the legal regulation of the functioning of the cooperative, and this area represents an area of distinct and separate competences of the European Union members. The divided jurisdiction means that the European Union is implementing laws in the field of cooperatives, and the Member States have no right to intervene at the same time.

In the final stage of creating a single market, on which the agricultural products from the EU will be places (the fundamental contours of this unified market were announced more than five decades ago), the European Union foresaw a complex set of measures at both the institutional and economic as well as technological and organisational plan, to legally regulate the area of cooperatives in agriculture. By the implementation of these measures we should get the established condi-

tions for the smooth movement of material goods and factors of production, knowledge, labour and capital, across the entire territory of Europe. The agricultural sector from the beginning had a specific position and treatment in these processes. Often, it was also a determinant of the dynamics and intensity of the integration process as a whole. This role is not absent even today, but it changed a lot, especially with significantly changed conditions and the strategy which includes development of new targets and mechanisms.

The agriculture and food industry of the EU represent a unique strategic system and therefore there is a unique legal regulation of these areas in the EU and in all Member States. The role and importance of the sector in the overall economy of the EU (despite the fall in relative terms), is reflected in a vital importance in ensuring the population's health, rural development and protection of living space. It has a special meaning having in mind that the European Union represents a market of several hundred million consumers who are willing to spend almost a quarter of their earnings on food.

The primary agricultural production sector employs about 2% of the labour force, contributing to more than 4% of GDP in the EU. All displayed segments of the food system of the EU employ about 20% of the labor force and produce more than 10% of GDP, which says enough in favour of the importance of regulation of this area, from a legal point of view. Having in mind that, worldwide, number of different types of cooperatives was formed, the International Cooperative Alliance (ICA) established seven basic rules originally which defined cooperative enterprise and what they were supposed to represent. The world has recognized that cooperatives are small and medium enterprises that can have a major impact on the economic and social structure of the country. In addition, the level of development of cooperatives is determined by socio-economic conditions and by an institutional environment.

Agricultural cooperatives in some European countries have certain peculiarities and differences as a result of various economic, productive and social conditions in which the cooperatives were created and have developed. Anyway, in all developed European countries, the cooperatives were built on the same legal basis concerning questions of their inner organisation, management and operations. No matter what political and general development in the countries affected the changes in the cooperative movement, certain common properties of reciprocity have still not significantly changed (Mataga, Papeš, Petak, 2005:216).

Thus, the cooperatives around the world, including in the EU, are built on the following principles and values:

1. Voluntary and open membership.
2. Democratic control by cooperants.
3. Economic participation of its members.
4. Autonomy and Independence of a Cooperative.
5. Education, Training and Information.
6. Collaboration with other cooperatives.
7. Caring for the community.

The recent economic and business practice shows that in certain countries and in certain sectors of the EU, the cooperatives retain a significant role in the economic system. The model of cooperative structures varies between different Member States and is the mostly dependent on the achieved level of economic development (Bogdanov, Beuk, Pirušić, Davidović, 2012:9).

## Conclusion

In the end, this paper has tried to show the importance and relevance of legal regulation of the functioning and operations of agricultural cooperatives in our country. Given the importance of agricultural activities, especially in our country, the legal regulation of cooperatives stands out as a necessity. The Law on Cooperatives (The Cooperatives Act) of the Republic of Serbia, as the primary law regulating this issue is fully consistent with the basic principles of cooperatives in the European Union.

At the EU level, the European Commission, as the primary organ of the Union clearly highlights the great social and cultural significance of cooperatives and legally defines and regulates their functioning and operation. In addition, the fact that at the level of the European Union, there are about 300,000 cooperatives that provide about 4.8 million jobs, points to the importance of clear and precise legal regulation of their operations and functioning of the adequate level of the entire European Union, as well as all national legislations.

The analysis and discussion of the role of cooperatives at the EU level has prompted the increasing interest in agricultural cooperatives, after in 2003 the Regulation for a Statute for a European Cooperative Society (SCE) was passed. The European Commission emphasizes that the adoption of the aforementioned Act does not enhance enough the cooperative opportunities, as they are not sufficiently exploited and their usefulness has yet to be demonstrated at national and European level after its adoption. All in all, this special attention should be directed towards the new member states and the candidate countries (the accession countries), including the Republic of Serbia. In these countries, including our country, despite extensive reforms, the potential of cooperatives is not used properly. The SCE Statute could be useful for the development of cooperatives in developing regions and the New Member States. The European SCE Statute provides a state of the art of internal governance, but it is a top-down and has a “one size, fits all” approach that in its current form is too complex to apply for small start-up cooperatives; at best, the current SCE Statute could function as a model act for national legislation that will be needed in the coming decades given the evolution of the cooperative law, the differences in cooperative business cultures and the differences in challenges facing cooperatives in each of the Member States (Bijman et al, 2012:103).

The acceptance of this Statute for a European Cooperative commits the member states to adopt measures to implement and incorporate into their national regulations some provisions of the Directive to the workers involved in the decision-

making process of SCE. The European Commission considers that this is a good benefit for the national governments and investors to pile on initiatives to improve cooperative legislation and create a more favourable environment for their development. Republic of Serbia on its path towards the European Union is bound to meet these tasks if it wants to become part of unique agricultural markets and to improve its agricultural cooperatives and the approaches to the legal and organisational standards of the European Union, which is certainly an imperative.

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## ПРАВНИ СТАТУС, УЛОГА И ЗНАЧАЈ ПОЉОПРИВРЕДНИХ ЗАДРУГА У СРБИЈИ И У ЕВРОПСКОЈ УНИЈИ

**Сажетак:** Пољопривредне задруге представљају изузетно важан модел функционисања пољопривредне производње, који је познат од давнина. Од стварања првих облика задруга, до данашњег дана, интересовање за задруге и њихов рад је кулминирало у периоду велике економске кризе, када је поново "откривена" предност задруга и њихов потенцијал. Веза између задруга и руралног развоја је веома значајна јер управо исте доприносе испуњењу циљева регионалне економије и јавне политике, као и побољшању руралне конкурентности и одрживости животне средине. Развој и унапређење пољопривредних задруга у Србији и широм света је веома важан практичан задатак заснован на поштовању принципа пољопривредних задруга и постављених стандарда Европске уније и Међународног задружног савеза- ИЦА, у чије оснивање је укључено и Удружење српских пољопривредних задруга, заједно са другим националним удружењима у Лондону. Овај рад разматра значај и улогу задруга у модерној пољопривреди, као и основне принципе њиховог рада. Статус пољопривредних задруга у Републици Србији и на нивоу ЕУ су предмет дискусије и анализе која следи.

**Кључне речи:** задруга, пољопривреда, Закон о задругама, Европска унија