

Evolution of the Agricultural Legislation in Albania: Relevant Criminal Profile

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Abstract. *Albania, after the fall of the dictatorial system in 90', has faced numerous challenges in relation to the development of his own agricultural legislation. The current status of Albania, as a negotiating candidate country for the EU, has increased the obligations and responsibilities of the State in the adoption of laws and national strategies focus on agriculture. Thanks to international projects and partners, Albania, only in the latest years has managed the reformation of its agricultural system. The difficulties resulting from mass immigration, property conflicts, the creation of a sustainable economy organized in family businesses of the SME typology, the mechanization of the agricultural economy, investments in technological innovation, as well as closely related problems that directly affect the development of Albanian agriculture, present concern and need solutions. Misuse of funds, fraud or corruption related to the implementation of international agricultural financing programs present a problem in guaranteeing security and right access to agricultural support system and schemes. Beyond the difficulties, the goal is that in the European journey, Albania can raise its competitive abilities in the E.U. market, implementing the best community policies. The research methodology used is based on empirical (quantitative) data obtained from the Albanian and foreign Statistical Institutes, as well as on the objective analysis of these data in a comparative relationship between them.*

Keywords: sustainable agriculture, land, investments, corruption, innovation, technology, mechanization.

Introduction

The purpose of this paper is to offer the reader an all-inclusive panorama of the legal, socio-economic, and criminal situation of Albania in the field of agriculture, after the fall of the totalitarian system (communism) in 1990. The focus of the analysis has a multisectoral nature with the aim of providing an analytical framework as broad and integrative as possible in the problems of Albanian agricultural development. In this paper, also, the aim is to provide a comprehensive visual framework of the Albanian legal system. Special emphasis is placed on the analysis of the investments in agriculture, the use of innovative technology, as well as the efforts to stimulate sustainable agriculture, as an attractive force of the country's economy. Analysis is also reserved for the criminal elements (corruption, fraud etc.) that could penetrate in this sector.

Thus, in Albania, during the democratic transition of the 1990s onwards, the Law no. 7501, dated 19.07.1991 "On the Land", is considered the first pluralist law, which brought about the liberalization of the ownership concept for the Albanian citizens. This law, aimed at granting ownership or possession of agricultural land to any physical or juridical subject, without remuneration (Article 8).

The purpose of the "*On the Land*" law was to distribute the agricultural land to subjects who were part of the agricultural family and as such they would enjoy land, continuing and working it. In fact, subsequent legal development would create vacuums, mismanagement, forgeries, and systematic alienation of property against former legitimate owners. The law was adopted by the Albanian parliament and the leading party being justified as a normal recognition of the right of the people who worked the land. In fact, it was a hidden source of conflicts. There were several acts of corruption in the process of establishing the allocated surfaces and their places.

The law opened a conflict between the owner and now possessor subjects which still continues. This conflict is related to the fact that in many agricultural lands scattered throughout Albania, the owners who were confiscated and expropriated or killed during the period of the dictatorial-communist regime, from 1945 to 1990, would not enjoy the right of property as it was supposed to pass based on hereditary right, but they would pass and still continues, in court proceedings, to legitimize their ownership or to be compensated in monetary value in exchange for occupied land (Vukaj H., 2013).

The high conflict on the ownership of agricultural land, registered 3,451 lawsuits for known ownership issues at the national level only in 2021 (Statistical Yearbook, Ministry of Justice, 2021). This has made the legal system related to the technical systematization of the sector of agricultural to be strongly affected. The problems brought by the initial pluralist law "*On the Land*" and the continuation of its effects with the continuous approval of laws and normative acts, until the final approval of Law n. 20/2020 "*On Completion of Transitional Processes of Ownership in the Republic of Albania*", have negatively affected the development of agricultural crops.

Based on the above, the legal regulation of the agricultural sector has been a constant challenge for the Albanian governments. The harmonization with the *Acquis Communautaire* of the EU, must also consider the conflict over the land during these three decades of institutionalized Albanian democracy.

Currently, the agricultural sector is regulated by 27 special laws, 13 Decisions of the Council of Ministers, as well as special references in the Criminal Code of the Republic of Albania in the field of fraud, destruction of property (land) and other criminal offenses that are indirectly related to the management of funds, loans and grants.

However, in the process of fulfilling the obligations for membership in the EU, the strategic plan of Rural Development and Fishing for the years 2021-2027, approved by Decision no. 460, dated 29.06.2022 by the Albanian Government, gives us a clear and exhaustive overview regarding the promotion of the key sectors such as agriculture and fishing, by declaring them a national priority.

The funds invested by international partners in the agricultural economy through grants and direct investments have encouraged farmers in this sector to use what is available to cultivate and increase employment, as much as possible.

The application of auxiliary fiscal instruments approved by the Government for the 2021-2027 strategic plan (Ministry of Agriculture, 2021), as well as the promotion of the sustainable agri-food sector through the application of the EU Green Agenda. (Declaration of Sofia 11/2020), make this sector an attractive force of the entire Albanian economy.

Literature review and the agricultural sector in Albania

Albania has a total territory of 28,748 km². 24% of the available land is considered agricultural land and 16% permanent pastures and meadows (INSTAT 2022). The relief of Albania is mainly hilly and mountainous.

Albania, in an administrative-legal sense, is divided into 12 counties and 61 municipalities (Open Data Albania, 2020). The total population of Albania on January 1, 2023, turns out to be 2,761,785 inhabitants, suffering a decrease of 1.1%, compared to January 1, 2022. On January 1, 2023, the median age of the population is 38.8 years, from 38.2 on January 1, 2022. (INSTAT 2023). This means that an important part of the young population emigrated.

Regarding the labor force and its possibility to be used in the rural context, there is a significant decrease, since the active labor force, due to the high emigration from these areas, has been decreased year after year, marking so a loss of the workforce. In 2021, the labor force in the agricultural sector was 34.5%, influencing, in such dimension, directly the development of this sector.

Immigration

In Albania, the migratory phenomenon that has begun since 1990 and continue until today, which has emptied Albania of its labor force. Although over the years there have been sectoral fluctuations in the emigration of the population, the "migratory hemorrhage", has causes that many agricultural lands to remain barren, unworked, and uncultivated. This phenomenon includes the migration from the village to cities, and the most significant, from Albania to abroad.

A slight return trend is seen for the individuals aged 38-50 years, who have returned to their lands, investing the innovative knowledge obtained in the countries of emigration where they have lived.

These individuals are investing their life savings in the establishment of agricultural businesses, where prevails investment in family-run agriculture and agritourism (Domi S., 2019). Thus, the number of immigrants for 2022 was 46,460 people: 10.5% more, compared to 2021 (INSTAT 2023). This emigration wound with the constant decrease in the number of the population and its non-replacement with new births, causes Albania to have a shrinking of population in the coming years. The ratio between births - deaths - immigration is going to be of about 50,000 thousand people less per year.

The closest forecast is that Albania 2027, will be a population of about 2,500,000 million inhabitants and an "in crisis" to maintain and invest in agriculture and fishing, in particular.

Agricultural economy and investments

Although emigration has affected the labor force, the agriculture, however, continues to remain constant in relation to gross fixed capital, with a value of 53.7 million euros. The average gross salary in the agricultural sector remains low, in line with the national average, of around 380 euros gross, in a month. (INSTAT 2022).

Having evaluated the above factors, it is spontaneously thought that the investment in agriculture, if not assisted by the state bodies, on itself, is destined to die and will not be able to withstand either fiscal pressure or inflation. Also, given the lack of labor force and extremely low wages, this sector risks shrinking in the coming years until imports are greater than domestic production in relation to the field of agriculture, particularly.

Currently, agricultural production in Albania is characterized by small family-run farms, which is about 85%. (Xhoxhi O. et al, 2019).

Also important is the fact that due to being in deep rural areas, many farmers are not informed about the legal path they must follow to have the possibility of exercising their activity legally. A large part of them do not have information on how to access the national fiscal aid and investment schemes in the form of grants offered by pilot projects such as IPARD, loans granted by the EBRD or projects implemented by GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit, 2020).

Sustainable farm economics

Looking at the situation, Albania has a medium and long-term development potential with a positive and profitable development perspective.

In relation to the funds invested in Albania, only by the IPARD II project (Agriculture Europe, 2020), Albania has benefited from financing in the amount of 145 million euros, of which 75% have been provided by E.U. and 25% provided by the national budget. The investment in the form of loans was also given by the EBRD (European Bank of Reconstruction and Development, 2014) in the amount of 180 million euros, with the aim of stimulating the agricultural sector, especially in rural areas, as well as establishing a sustainable economy in these areas. In Albania, the total area of utilized agricultural land is 986,600 ha. This includes meadows and pastures as well as undivided lands under the administration of municipalities.

Farms are characterized by a structure (SME), since the connection of farmers with each other seems difficult in practice, but, on the other hand, for public policies, direct investment in these structures seems to be simpler, more controllable and with more little loss (Xhoxhi O. et al., 2014). However, it is important in the legal aspect to mention Law no. 38/2012 "*For Agricultural Cooperation Societies*", which aims to fulfill the needs and mutual interests of farmers in the areas of production, encouraging their exchange, cooperation and fiscal relief in the use of national assistance schemes. Currently, this law is finding an almost marginal application, since farmers often, due to conflicts over land, borders, easements and corruption in state structures that distribute loans, grants or direct investment funds, do not find it reasonable to cooperate with each other (Wang H. et al., 2014).

Agricultural farms, starting from the circumstances that they are mainly oriented by family administration in rural areas and analyzing the problems underlined above, have a handicap in relation to sustainability. In case that, they do not manage to cover their costs, such as those in the medium or long term, thus will make their existence riskier (Ridder H., 2017). This is because the costs of investment in the farm and those of the profit can turn out to be bigger.

Table 1. Size of the farm

Farm Size – Economic Sustainability	Arable land	Greenhouses	Citrus fruits	VINEYARDS	Field and orchard vegetables	Olive farms
Year 2021	50 hectares	20 hectares	0.5 hectares	0.90 hectares	1 hectare	2 hectares

Structure of investment in farms (source: INSTAT 2019).

Shadows with a criminal profile

Beyond the problems arising from the regulation of ownership, which is considered a real obstacle in the process of consolidating the sustainability of farms and investments in them, the criminal

profile also takes an important place. The high level of corruption in Albanian society and public administration (Transparency International, Corruption Index 2022) also leads to misuse of funds, loans and direct investments in the agricultural sector.

Albania currently ranks 101st out of 180 countries in terms of the perception of the level of corruption, with a score of 36 out of 100 points regarding corruption and its sectors. As a result, rampant corruption means that even the agriculture sector is involved in corruption. Thus, starting from the informality of the registration of farmers' economic activities in the responsible structures, it has resulted that third individuals (realtors) have mediated, through fraud (Article 143 of the Albanian Criminal Code) in the performance of these procedures, (in specific cases illegal) by promising farmers financing from the responsible state authority, in exchange for a percentage of the profit on the grant, investment or loan if it would be obtained.

Also, in the criminal aspect, it is interesting that for 2023, a series of criminal proceedings related to the active and passive corruption of public officials related to investments in the field of agriculture were registered by the Special Prosecutor's Office against Organized Crime and Corruption. Even at the General Prosecutor's Office of Albania, criminal proceedings have been registered against some farmers in relation to fraud in subsidies, provided for by Article 144 of the Albanian Criminal Code, as these subjects have presented documents with the aim of unfairly benefiting from the subsidies granted and managed by competent state structures.

Currently, with the European Commission decision, the granting of IPARD II funds to Albania has been suspended, due to another series of cases of a corruptive-fraudulent nature with EU funds. The request for suspension came in October 2023 because of the facts presented by OLAF (Investigates fraud against the EU budget, corruption, and serious misconduct within the European institutions, and develops anti-fraud policy for the European Commission), with an economic damage against the EU, estimated at 410 thousand euros.

In terms of the legal protection of the land, Albanian legislation, whether at the level of organic law (Criminal Code) or at the level of specific law, provides guarantees for the protection and preservation of agricultural land from damage, abuse, or its unfair use. It is worth noting that Law no. 9244, dated 17.06.2004 "*On the Protection of Agricultural Land*", defines in detail both the functions and the actions that the responsible structures in the field of agricultural land protection are obliged to undertake. In this law, also, is interesting the connection it makes with the application of criminal sanctions in case of serious violations affecting agricultural land. Thus, on Article 27 of this law, the cases are clearly defined when the administrative bodies must file criminal charges for the destruction of agricultural property (Article 150 of the Albanian Criminal Code) and other consequences that derive from it.

Methodology

In this paper, the methodology used is that of comparing statistical data for the agricultural sector in relation to the labor force, investments made and forecasts for the future, looking at the figures related to the agricultural economy. Also important in this paper is the multidisciplinary connection with the consequences, not always legal, of the actions carried out by farmers and their cooperation with public officials to obtain funds in an illegal manner.

The relationships are investigated based on quantitative and qualitative data. The connection between these empirical data, with the qualitative ones derived from the general context of the national strategy for investment in the agricultural sector, makes the reader get a clear

overview of both the legislative evolution and the objective situation of the development of the agricultural sector in Albania.

The application of deductions is closely related to both the special and organic criminal law, combining the specific interests of farmers with the resolution of land conflicts, as well as the promotion of supportive policies for them. This makes this sector to have a dominant role in the economy, where special focus is on encouraging young people not to leave the country with the purpose of emigration.

This paper is original and studied *ad hoc*, with the aim of cross-referencing data both in the narrow legal sense and in the supporting statistical one. This is a multidisciplinary collaboration between the authors who divide it into cause (agriculture) and criminal consequence (in case of abuse, waste and/or destruction of agricultural land and what derives from it).

Results and discussions

From the above it is clear that Albanian farmers have both objective advantages and disadvantages in the exercise of their activity.

In terms of advantages: Farmers, being organized in family businesses of the SME typology (Tajeddini K. and Treumann M., 2013), have faster access and less preparation of documentation related to obtaining financing. They have small and manageable agricultural production directly by themselves, without going through third distribution channels, such is under the condition that the farmer can find the market and the final consumer by himself; taxation for agricultural farms is lower compared to other sectors. Taxation for farmers is currently at the rate of 5% profit tax and 0% infrastructure impact tax. This gives farmers the opportunity to optimize their profits because of the favorable fiscal policy.

Disadvantages: Difficulty in covering costs and guaranteeing profit year after year; difficulty in procuring labor force due to high emigration; difficulties in obtaining investment funds due to high informality and pronounced corruption of competent state structures; the conflict over the land and the lack of negotiating power in relation to the prices of both the procurement of raw materials (seeds, etc.) and the determination of the final price; difficulties in finding a stable market for the sale of products; uncertainty in exports due to exchange rate fluctuation between the local currency (ALL) and the European currency (euro).

Agricultural mechanization and innovative technology.

The concept of using innovative technology in agriculture is also interesting in the framework of adaptive policies and the alignment of Albanian farm structures with European ones.

The use of new techniques in greenhouses and the provision of special machinery for agricultural cultivation are positive signals in the development and facilitation of the work of farmers. For example, in the city of Lushnje there are about 589 ha of greenhouses or 30% of the entire area present in the whole country. Thus, in 2022, production in greenhouses has increased by 7.22% compared to 2021, thanks to the increase in auxiliary machines in production (INSTAT 2022). A special place in the growth of production in greenhouses is occupied by the tomato, which captures the figure of 51.6% of the total production in greenhouses.

Table 1. The process of mechanization of the agricultural sector

Mechanization of agriculture - 2021 report			
Wheeled tractors	Minitractors	Planting machines	Combine harvester
9.655	5.715	4.036	697
Average per ha	1 tractor for 122 ha of land	1 auto harvester for 431 ha of agricultural crops	

Source: INSTAT 2022.

The addition of the "army" of machines in the field of agriculture, given the above data, has created facilities for farmers, such as:

- a) increasing the speed of plowing
- b) increasing the speed in the collection of agricultural products using machines
- c) reducing the number of employees on the farm, given the current immigratory crisis.

Disadvantages:

- a) high cost of their maintenance – replaceable materials;
- b) high costs for the specialized training of farmers for the use of these machines;
- c) fragmented plots of land that often do not have enough space to use these types of machines without interfering with the "neighbor's" land, by giving "fire" of old conflicts.

In fiscal terms, in relation to these agricultural machines, the fiscal package currently implemented in Albania foresees the application of the 0% Vat tax for:

1. Imported and domestic agricultural machinery.
2. The application of zero tax for fuel in the service of agricultural machinery for farmers.

The mechanism, as a process of helping and improving the lives of farmers, presents costs and requires extensive supporting budgeting from the state bodies. However, this mechanization brings an increase in competition in the market since farmers with fiscal incentives and the creation of collection points by the state are more facilitated in optimizing their time and guaranteeing sales as long as the market allows cooperation and distribution through agricultural collection points.

Digitalization of agriculture and "friendly green" technology

The project of digitalization of agriculture in Albania is still a challenge since the level of technological knowledge of farmers is little or insufficient. Although, there have been success stories in the use of green technology (heating greenhouses with renewable energy from solar panels, or "agri-voltaics", but it remains at the minimal limit of use.

In 2023, a growing trend has been observed, towards support with subsidies from state bodies, mainly in the sector of growing plants in greenhouses and agritourism. Farmers who have requested subsidies for agri-voltaic equipment are making maximum use of both private and state incentives to equip themselves with these solar panels, which are being used to heat greenhouses with renewable energy. Although, applications are few in numbers, but the trend is for increased investment in "friendly green" renewable energy.

Also, now is possibly that farmers can apply for grants, direct financing, applications for auxiliary projects in agriculture, and any other type of service related to their activity through the "e-Albania" portal, but the difficulties in accessing and using of this state portal are numerous. This is due to the fact that the farmers are not specifically trained in the use of the receipts of public services offered to them for their sector, in order to improve their activity. Farmers often fall prey to third-party scams by signing documents for subsidized positions that ultimately do not end up being in their service. In remote rural areas, there is often a lack of Internet networking or the adoption of helpful and "green" technologies, which would absorb a form of development closer

to the worldview of young people, thus preventing the phenomenon of mass immigration of Albanian youth.

Likewise, the digitization of agriculture with the involvement of leading companies in the soil research sector through the latest technological scans; the measurement in the field of the productive capabilities of the soil and the condition of the plants would help the farmers in the selection of the type of investment that they could make in their land. This would avoid "experiments" in wrong planting, which in the short or medium term could bring more costs than profit. The collaboration that can arise between companies dealing with land studies, their digital mapping in function of planting and consulting on the use of technological products for production, processing, tracking and distribution of the agricultural product would be another useful bridge between the farmer and the distribution of his product to the final consumer.

Policymaking of strategic plans

The presence of farms with a small and “maximally” medium production capacity, which revolve mainly towards family management is sustainable but, on the other hand, the risk of their failure is high.

The role of the policymaking of strategic plans should be more invasive in forcing farmers to cooperate with each other in the similar production sector; is needed an application of fiscal policies favoring domestic production by increasing the taxation of import costs against the same and/or similar agricultural products, produced by Albanian farmers; it is necessary to secure markets within the framework of cooperation, such as in district, regional and international areas; it is vital to fight against the corruption of public officials who, taking advantage of the lack of knowledge of farmers, appropriate the funds intended for them and punishment is needed for anyone who cheats with subsidy schemes, especially in the agricultural sector.

The role of the State in improving of the agricultural system

The phenomenon of the corruption is so present that it can be limited bigging by educating young people with agricultural studies background in implementing European projects at the state level through the National Agricultural Agency (N.A.A.). The farmers must have incentives for the implementation of successful projects; the N.A.A. must organize free seminars for the farmers, especially during the winter - time, for the education of them. A new culture based on the climatic changes and the *soil* structure must be educated on focus the new technology, implementation of the Artificial Intelligence in agriculture, etc.

The state must solve the conflict between the old owners and the new ones. Returning the land under the existing conditions, after 30 years, is impossible, but the compensative process should be gone further and be appropriated based on the market value. Thus, because no investment will be done on a land under litigation regarding the ownership. The investments of the farmers in technologies must by supported by the state, at least by covering the bank interests on the loans taken for tractors, irrigation devices, etc.

Considering the specific of the Albanian territory, the state, has a relevant role in encouraging the big farms resulting from the several small farms unifying, administrated on the profit obtaining concept. This will give them easier access to finance and a better usage of the field, but this is valid for the places where the land permits big agricultural surfaces. For small surfaces, the bio-agriculture must be encouraged, having a specific higher price market and stimulated to have more collaboration with other industries and services that are related to the agricultural field.

Conclusion

From the above analysis, it results that the agri-cultural system in Albania is still rudimentary, despite the efforts to bring it to European standards.

The numerous problems related to the totality of factors as objective (e.x. lack of labor force, misuse of funds, conflict over property - agricultural land, inability to cooperate with other similar structures on the part of farmers, lack of knowledge of innovative technologies), make that the process of investment in the most important Albanian sector is moving slowly and uncertainly.

In subjective way, the lack of training of farmers on the opportunities that are offered to them, both by public administration and by licensed private organizations, leaves the farmer with a lack of information, thus making it difficult for him to invest; to find a market for the sale of his own products; increasing production capacity in the use of technology and cooperation with companies with similar objects in the agriculture area.

The criminal problems encountered with fraud schemes to the detriment of funds made available by international partners, rampant corruption, and the lack of proper application of domestic production promotion policies, make the Albanian agricultural system very fragile. Indeed, the presence of farms with a small and “maximally” medium production capacity, is sustainable but, the risk of their failure is high. Corruption will never be eradicated, but implementing measures as the ones enumerated above, it will be considerable reduced. Offering tools and a good and functional system to the farmers, they will use them to improve their own farm legally.

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