

<http://dx.doi.org/10.16926/gea.2025.01.01.09>

dr Artur LIS

<https://orcid.org/0000-0003-4613-0671>

Katolicki Uniwersytet Lubelski Jana Pawła II

e-mail: arturlis@kul.pl

Codification of Agricultural Law. Remarks de lege lata and Proposals de lege ferenda

Abstract

Historically, Polish agricultural law has undergone significant changes, starting from peasant emancipation in the 19th century, which utilized public law instruments for reforms. During the interwar period, laws focused on agrarian reform, partitioning large estates, and creating peasant farms. After World War II, socialist policies led to state intervention and administrative control over agriculture. From the 1980s onwards, there was a shift towards civil law.

The proposed Agricultural Code aims to consolidate various agricultural regulations into a single legal act, covering agricultural activities, farm definitions, farmer status, land acquisition, inspections, crisis support, and social insurance. However, it faces criticism for lacking coherence, not addressing large farms, omitting key topics like agricultural tax, social insurance, and land consolidation, and failing to provide mechanisms for food security or consumer protection. Additionally, it does not include a realistic transition period (*vacatio legis*).

Improvements suggested for the code include defining and regulating large farms, agricultural enterprises, and spatial planning, addressing the turnover of state-owned real estate, and clarifying the role of ARiMR (Agency for Restructuring and Modernization of Agriculture). It should also establish clear rules for farmers regarding consumer protection and food safety, and recommend establishing a realistic transition period. The document concludes that while the code's attention to farmers' issues is positive, it requires effective legal solutions and a comprehensive vision for agriculture. It recommends involving agrarian lawyers in drafting the code and establishing a codification commission to systematize and develop agricultural law effectively.

Keywords: codification, Agricultural Code, agriculture, agriculture law.

Introduction

The subject of this article is the evolution of Polish agricultural legislation and a critical analysis of the draft Agricultural Code. The main objective is to evaluate whether the proposed code meets contemporary legislative challenges faced by the agricultural sector in Poland. This study employs dogmatic, historical, and comparative legal research methods. The hypotheses tested include whether the Agricultural Code sufficiently consolidates existing regulations and adequately addresses modern agricultural issues such as farm management, consumer protection, and food security.

Agriculture is a highly complex, diverse, and dynamic sector that evolves under the influence of the macroeconomic environment and, in turn, affects it. Its significance for development can be seen in shaping living conditions, impacting economic growth, and providing environmental services. The development of agriculture and agricultural markets is determined by exogenous factors, which are external influences on agriculture and the broader economy, and endogenous factors, which are related to production potential such as labor, capital, and land. The interactions between the environment and agriculture remain a vital area of economic research. Given that rural areas make up a large part of Poland, the agricultural sector is widely seen as a potential key driver of the entire economy¹.

There are two European models for the development of agricultural law. The agricultural law of the Roman countries comes to a greater extent from civil law, and was formed on the basis of the specific nature of civil law contracts involving agricultural relations. German agricultural law, on the other hand, has its origin in public law, formed in connection with land reforms and granting property rights. Currently, agricultural law in Poland is situated at the crossroads of private and public law, but it is evolving towards civil law, contract law, and the agricultural code should also move in this direction. The problem of the agricultural code belonging to the private-legal sphere is quite a complicated issue. Civil law relations, by definition, occur between equal subjects of law. And this, in turn, requires much more activity on the part of the farmer to assert his or her rights or claims in court. In administrative law, on the other hand, the basic feature is the superiority of the administrative body over the party to the proceedings, where the body decides with authority on the legal situation of the farmer. And it is precisely why it is the right direction to give the agricultural code a private-law character, because otherwise the farmer will always be the weaker party in his/her relations with administrative bodies - not only agricultural ones. Of

¹ See *Prawo rolne*, ed. P. Czechowski, Warszawa 2019; *Instytucje prawa rolnego*, ed. M. Korzycka, Warszawa 2019; P. Bender, P. Blajer, A. Makowiec, Z. Truszkiewicz, *Prawo rolne*, Warszawa 2022.

course, administrative law gives the party many instruments of protection, which has some advantages but, nevertheless, the ruling position of the authority still remains².

Evolution of agricultural legislation in Poland

In Poland, agricultural legislation has undergone significant evolution. The greatest development of agricultural legislation and legal doctrine occurred at the beginning of the 19th century. During this period, the evolution of two models of agricultural law regulation became the fundamental and still relevant approach to agricultural legislation. The first model, known as the Roman model, particularly applied in France, Italy, and Spain, emphasizes civil regulation with all its principles. This model refers to regulations of private law. The second model, referred to as the German model in literature, focuses on the regulation of agricultural legal relations through administrative and legal means.

Initially, a significant factor was the process of peasant emancipation in the 19th century. In the Polish territories, the period of emancipation occurred between 1807 and 1864. Although at the turn of the 19th and 20th centuries, there were three different legal systems in force in the Polish territories (Russian, Austrian, and Prussian), in all partitions, there was a set of predominantly administrative provisions related to peasant emancipation, colonization, later agricultural reforms, land consolidation, and various forms of regulating the technical aspects of agricultural production. The period of peasant emancipation was characterized by the utilization of public law instruments to implement the agricultural policies of that time³.

The Reborn Polish State faced the need to repeal the existing regulations of the partitioning powers and, above all, to issue numerous new laws shaping the agricultural system. After Poland regained independence in 1918, the following legislative regulations were enacted:

Resolution of the Legislative Sejm of July 10, 1919, regarding the principles of agrarian reform.

Law of July 15, 1920, on the implementation of agrarian reform.

Law of December 28, 1925, on the implementation of agrarian reform.

The legislation related to agrarian reform during the interwar period focused on the following issues:

² P. Czechowski, K. Marciniuk, A. Niewiadomski, P. Wojciechowski, *Prawo rolne jako przykład mieszanej metody cywilno- i administracyjnoprawnej w kontekście krajowym i europejskim. Jego rola jako przedmiotu obowiązku*, [in:] *Dziedziny prawa, dyscypliny i metody prawnicze*, ed. T. Giaro, Warszawa 2013, p. 105-117.

³ R. Budzinowski, *Geneza prawa rolnego jako dziedziny legislacji*, „Czasopismo Prawno-Historyczne” 1(2008) p. 85-97.

Partitioning of large agricultural estates, known as manors, and the creation of new peasant farms or their expansion through land redistribution (full peasantization). Emancipation of long-term land tenants who did not receive ownership rights. Abolition of servitudes. Elimination of communal land ownership. The 1921 Constitution specifically addressed land ownership, stating in Article 91 that land cannot be subject to unrestricted circulation and that the state will regulate such transactions. During this time, the greatest importance was attributed to the 1925 law on agrarian reform. It abolished certain burdensome legal relationships in the agricultural system, such as servitudes (mentioned earlier), organized communal land ownership, and emancipated small agricultural leaseholders. The process of land consolidation, known as "komasacja," was also continued.

When discussing the legal regulations in the field of agrarian law during the interwar period, it is worth noting that after the enactment of the Law on the Implementation of Agrarian Reform in 1925, the Minister of Agrarian Reforms established the Commission for the Organization of Agrarian Legislation, chaired by Władysław Leopold Jaworski. The result of its work was the Draft Agrarian Code, which was published in 1928. Władysław Leopold Jaworski approached the project with three main theses: 1) the agrarian code should have the character of public law regulation since its primary goal is the restructuring of the agricultural sector by the state in the public interest; 2) the agrarian code should consist of both material and formal parts; 3) the scope of codification should also include "the introduction of supplementary provisions to agrarian legislation."

The project of the Agrarian Code authored by Władysław Leopold Jaworski (consisting of over 400 articles) exhibits the following characteristics⁴:

1. It is a code of administrative law.
2. It is the central legal act of agrarian law.
3. It contains the fundamental institutions of agrarian law.
4. It is not complete, and this incompleteness was intentional.
5. It not only codifies existing regulations but also replaces them and creates new ones.
6. It is oriented towards the long-term effects of its regulations.
7. It is based on economic rather than political considerations.
8. It is designed to minimize the need for frequent amendments (aiming for stability).

After World War II, Poland introduced a socialist system, which can be divided into two main sub-periods: The period of accelerated implementation of the socialist system (1944-1956), modified after Stalin's death in March 1953. The period of functioning of the socialist state (1956-1989). New regula-

⁴ P. Kalinowski, *Projekt Kodeksu agrarnego W. L. Jaworskiego: wybrane aspekty*, [in:] *Współczesne problemy prawa rolnego i żywnościowego*, ed. D. Łobos-Kotowska, Katowice 2019, p. 149-162.

tions in line with the Germanic model emerged in Poland along with the new ideology after World War II. The regulation of agrarian relations, particularly intervention in the sphere of property law, was carried out through administrative means. This process began with the Decree of the Polish Committee of National Liberation (PKWN) of September 6, 1944, on the implementation of agrarian reform, followed by laws and executive regulations issued by the Minister of Agriculture concerning social relations in the agricultural sector.

The period from 1945 to 1955, characterized by accelerated collectivization in agriculture, intensified and expanded this new approach. Agrarian law was intended to serve as a legal instrument not only for agrarian reform but also for the comprehensive socialist restructuring of the agricultural system in Poland. This new approach and the social function of agrarian law had a significant impact on the nature and scope of this branch of law:

The previous narrow concept of agrarian law, which focused mainly on administrative control, was abandoned. A broader, integrated concept of agrarian law that encompasses civil and administrative elements was introduced into doctrine.

Agrarian law ceased to be treated as a branch of administrative law but was viewed as a comprehensive branch of law encompassing norms of civil and administrative nature, unified by their agricultural subject matter.

The emergence and formation of new, specific institutions unique to agrarian law, unknown in traditional branches of law, began to be recognized.

Some relaxation in the policy of rural socialization, which occurred after 1956, led to a broadening of the scope of agrarian legal regulation beyond the restructuring of the agricultural system. It encompassed the entirety of norms governing the structural-spatial basis of agriculture, the organization of the agricultural product market, and the production processes in agriculture.

In the following years until 1980, we observe the so-called indirect socialism, which is characterized by a return to civil law regulations in the field of agricultural law. Active policies aimed to prevent the fragmentation of individual farms. Land transactions during this period were based on a civil law approach combined with administrative control over territorial norms. The mandatory delivery requirements were reduced quantitatively, and legal regulations in this regard were replaced by contractual agreements. The institutions regulated in the Civil Code of April 23, 1964, relating to real estate transactions, abolition of co-ownership, leasing, contracting, life estates, and special legal regime of inheritance of agricultural farms, took on a new shape⁵.

In the 1980s, an attempt was made to maintain a balance between civil law and administrative regulations. The aforementioned institutions related to real

⁵ R. Budzinowski, *Próby kodyfikacji polskiego prawa rolnego*, „*Studia Iuridica Agraria*” 2(2001), p. 27-38.

estate transactions were further refined, while new regulations emerged, such as water law, protection of agricultural and forest lands, land exchange and consolidation, and spatial planning. Equality between sectors in agricultural trade was established.

The principles and rules governing land management are a function of the state system. They differ in liberal, socialist, and communist states. As a result, the ownership structure depends on the prevailing legal system in a given country.

The system transformation necessitated a departure from strict legal-administrative regulations in agricultural law and led to the implementation of Roman law principles within the adopted social-market economy after 1989. This period saw the establishment of government agricultural agencies, privatization, restructuring, and liberalization of agricultural land transactions. The integration aspirations with the European Union became apparent.

From a very formal standpoint, it is worth emphasizing that EU regulations are becoming increasingly organized, encompassing a wide range of legal acts essential for specific areas of the Common Agricultural Policy. It is argued that EU agricultural law is increasingly regulatory in nature and less interventionist. Similarly, in Poland and other EU member states, EU agricultural legislation has become the dominant source of agricultural law⁶.

Draft Agricultural Code

The subject of my presentation today is the Polish project "Agricultural Code," proposed by Janusz Wojciechowski, the Commissioner for Agriculture in the European Union, and Member of Parliament Grzegorz Wojciechowski⁷.

Chapter I defines the content and scope of the Agricultural Code and its relationship to regulations concerning agriculture in other laws. The Agricultural Code is intended to be a comprehensive legal act regulating fundamental issues related to agricultural activities and their protection, the legal status of agricultural holdings, and the practice of the farming profession. The aim of the code is to incorporate the majority of other statutory regulations in agricultural law, allowing farmers to easily familiarize themselves with legal provisions consolidated in a single legal act, rather than scattered across multiple laws. Within the proposed regulations, the initiators envision initially introducing only the general provisions of the Code, which, however, will have direct legal effects. Further

⁶ A. Lichorowicz, *Kierunki zmian ustawodawczych w polskim prawie rolnym w ramach jego harmonizacji z ustawodawstwem Unii Europejskiej*, [in:] *Polityka rolna Wspólnoty Europejskiej i jej konsekwencje dla polskiego rolnictwa*, ed. A. Jurcewicz, Warszawa 2000, p. 93-100.

⁷ <https://www.farmer.pl/finanse/poznalismy-pelna-tresc-kodeksu-rolnego-nowe-prawo-zostanie-przyjete,126766.html> [01.05.2024]

provisions of the Code will be progressively introduced through subsequent legislative initiatives⁸.

Chapter II specifies the tasks of the state in relation to agriculture, taking into account the objectives of the Common Agricultural Policy of the EU as stated in the Treaty on the Functioning of the European Union, as well as tasks that constitute the content of national agricultural policy. The proposed provisions encompass tasks for both governmental and local authorities, with local authorities mainly concerned with protecting agriculture within spatial planning and organizing local markets for direct sale of agricultural products. It is also important to note the commitment of the state to protect farmers from unfair trading practices defined here in accordance with the directive of the European Parliament and of the Council (EU) 2019/633 of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain.

Chapter III contains a definition of agricultural activities (referring to the definition in EU law) and the basic principles of protecting agricultural activities, including the farmer's right to undisturbed pursuit of agricultural activities and the protection of agricultural activities in investment processes carried out on agricultural land. The aim is to ensure that farmers have certainty in managing their activities when conducting lawful agricultural activities on agricultural land and farm buildings. Furthermore, the principle is established that any compensation for farmers related to expropriation should fully compensate not only for the lost land but also for the necessary costs to re-establish agricultural activities in another location. It is also emphasized here that public authorities have an obligation to provide farmers with the opportunity for appropriate land exchange in such situations. An important provision is the protection of neighboring assistance, which plays a significant role, especially in terms of using agricultural machinery. The principle is introduced that such assistance, even if remunerated, provided by one farmer to another, is treated as work within one's own farm and does not entail tax or social insurance obligations.

Chapter IV provides the definition of an agricultural holding (in accordance with the definition in the Civil Code) and also the definition of a family farm, limiting it to farms up to 300 hectares, which is consistent with the existing regulation in the Law on the Shaping of Agricultural Structure. The project allows for the joint management of a farm by close relatives, but only when the family voluntarily agrees to jointly operate the farm. According to the authors of the project, this will facilitate the full participation of farming families in farm management, conducting various transactions related to its operation. It will also allow young farmers, entitled to benefits provided for young farmers in terms of accessing EU funds, to include not only a young farmer managing the farm but also a young farmer who co-manages the farm through a family agreement.

⁸ [https://orka.sejm.gov.pl/opinie9.nsf/nazwa/792_20230127/\\$file/792_20230127.pdf](https://orka.sejm.gov.pl/opinie9.nsf/nazwa/792_20230127/$file/792_20230127.pdf) [01.05.2024]

The provisions in Chapter IV also include a definition of close relatives, based on the current regulations in the Law on the Shaping of Agricultural Structure, but expanded to include second-degree relatives not covered by the current regulations.

Chapter V regulates issues related to the status of a farmer. It defines a farmer as a person engaged in agricultural activities, regardless of whether that person is an owner, self-occupant, or merely a lessee of an agricultural holding. The condition is that the person manages or co-manages the farm. The chapter also includes a definition of a young farmer, taking into account the needs under EU law and existing regulations in this regard. The maximum age for a young farmer is 40 years. The principle is also decreed that access to funds for young farmers does not require exclusive management of the farm by the young farmer; co-management is sufficient. For example, if a young successor works on their parents' farm and will only take over the farm from them in the future. All of this, of course, assumes a mutually agreed-upon arrangement within farming families.

Chapter VI regulates issues related to the rights to acquire farms or agricultural properties larger than 1 hectare, reinforcing the existing principle that only farmers can be purchasers. The provisions also allow for the possibility of making the acquisition of agricultural properties dependent on the requirement of operating the farm for a specified period of time or residing in a specific location, confirming the current regulations. The concept of a new farmer is introduced, referring to a person who is not a farmer but has the professional qualifications to become one. Such a person can also be a purchaser of a farm or agricultural property.

Chapter VII contains guarantee provisions related to inspections of agricultural holdings, introducing an important principle that the right to such inspections is solely reserved for state inspection and control authorities.

Chapter VIII establishes rules for assistance to agricultural holdings in crisis situations. Article 9 introduces the principle that farmers who have not received payment for their agricultural products from purchasing entities are exempt from court costs. It often happens that farmers are deprived of payment for their agricultural products, and if they want to claim their dues from an unreliable recipient, they have to bear court costs amounting to 5% of the value of the dispute. Sometimes, this 5% constitutes the entire income from agricultural activities. The farmers not only fail to receive their due income but often also incur additional court costs without any procedural effect. The drafters assume that farmers' claims for delivered agricultural products are essentially the same as claims for labor remuneration, which are statutorily exempt from costs. Regarding other court proceedings related to the operation of agricultural holdings, of which farmers may have many (ownership issues, neighboring disputes, inheritance matters, etc.), the draft provides for a statutory reduction of court costs

by half. The draft introduces the necessary minimum protection for agricultural holdings in enforcement proceedings directed against those holdings, in such a way as to allow the farmer to continue operating the farm to a minimum extent, i.e., up to 10 hectares of agricultural land, necessary buildings, and live and dead inventory. This limitation does not apply to mortgage foreclosures, as the aim is not to restrict the farmer's credit capacity.

Chapter IX introduces crisis support instruments for farmers who have suffered damage to crops or livestock due to disasters (such as drought) or random events (such as animal falls) when such damage is not covered by voluntary or compulsory insurance. The project responds to the social and economic problem of high risk of damage in agricultural activities, the risk of cumulation of these damages at the same time, and the fact that not all farmers are able to insure against these risks. Therefore, the draft proposes that in such cases, the farmer could receive compensation from budgetary funds, with the support amounting to 50% of the value of the damage and applying to damages not exceeding the three-year minimum wage. The draft introduces the principle of full responsibility of the State Treasury for so-called hunting damages, i.e., damages to crops or live inventory caused by wild animals owned by the State Treasury.

Chapter X introduces provisions ensuring the protection of agricultural holdings against unjustified division in court proceedings (e.g., in inheritance divisions) and administrative proceedings (e.g., in expropriation cases). The obligation to limit the division to absolutely necessary situations is introduced, due to significant public or private interest. The principle is also established that, in the case of necessary division, it should be carried out in such a way that the parts created as a result of the division retain the necessary conditions for their use (access to machinery, grazing opportunities). The draft introduces rules governing the termination of co-ownership of agricultural holdings, giving priority to the co-owner who has been working in the holding continuously.

Chapter XI provides a permanent guarantee that farmers will be subject to a separate social insurance system (KRUS). It also allows farmers to obtain small income from non-agricultural activities that do not result in the loss of rights to KRUS insurance and the need to switch to the general pension and social insurance system.

Chapter XII contains provisions establishing the institution of the Agricultural Ombudsman, partly modeled on the existing institution of the Small and Medium-sized Enterprises Ombudsman. The Ombudsman would have broad powers to intervene on behalf of farmers in their court proceedings (administrative, civil, and criminal cases related to farming), including the right to file cassation appeals and extraordinary complaints. It should be emphasized that the project of the Polish "Agricultural Code" has received significant interest from the academic community. There was a university scientific debate, including the Lublin-Warsaw debate, on this project. It has been subjected to sharp criticism by legal scholars specializing in agricultural law.

***Ratio legis* of the draft Agricultural Code**

Analysis of the individual parts of the draft leads to the conclusion that the legal material contained therein largely constitutes a compilation of already enacted legal acts or their parts. The draft highlights issues related to EU and national agricultural policy, the general tasks of public authorities related to the implementation of this policy, definitions and scope of agricultural activities, definitions of a farmer, rights to acquire agricultural land, control of agricultural holdings, protection of agricultural holdings in judicial and administrative proceedings, crisis support, and protection of agricultural holdings during their division or termination of co-ownership. The draft also signals the existence of a separate social insurance system in agriculture (KRUS) and proposes the introduction of the institution of the Farmers' Ombudsman⁹.

It is assessed that these regulations do not fulfill the basic functions of agricultural law. The question arises about transferring to the draft normatively and doctrinally stabilized definitions found in, for example, the Civil Code, which concern key issues for civil and agricultural law, such as the definitions of agricultural property, agricultural holding, and farmer contained in the Act on the Shaping of the Agricultural System.

The introduction of the Agricultural Code into the legal system should organize the legal regulation of the agricultural law discipline. Evaluating the draft, it can be stated that it could play a significant role in agricultural legislation, provided that it is significantly expanded, including agricultural law institutions, and linked with the existing legal system, taking into account the areas of conflict between the existing norms within the system.

The discussion on the proposed scope of the Agricultural Code must be preceded by the development of its basic assumptions and subject of regulation. The Code also requires a strictly defined systematics.

The idea of the code as a legal act of appropriate durability and stability is contrary to the necessity of adapting to the changing economic and social environment. However, it should be noted that the codification of a given branch of law strengthens it, gives impetus to its development, and testifies to the importance of the regulated issues for state policy. An important issue is also the reference to the principles of agricultural law formulated in legal doctrine.

The basis for creating the Code, and at the same time the overriding *ratio legis*, should be a comprehensive vision of agriculture and agricultural law in Poland. It cannot be just an attempt to solve selected problems reported by farmers, which the project authors consider the most important.

⁹ See *Lubelsko-warszawska debata o projekcie Kodeksu rolnego*, eds. B. Jeżyńska, A. Niewiadomski, Warszawa 2023.

The role of codes, in light of doctrinal views, is not only to comprehensively regulate a broad field of issues but also to systematize individual branches of law, establish their guiding principles, and stabilize the legal status in a given field, which consequently strengthens citizens' trust and respect for the law.

The agricultural system of the state is directly regulated by Article 23 of the Constitution of the Republic of Poland, which states that the basis of the agricultural system of the state is the family farm. This constitutional provision implies that it should be an efficient form of farming, allowing for the production of agricultural products that not only ensure a "decent" livelihood for farming families but also meet the needs of society to the fullest extent.

However, the project lacks the necessary functional and systemic coherence and has a blanket character of regulations. The project does not take into account the constitutional assumptions concerning the system of sources of law. It lacks introductory and repealing provisions, and the proposed *vacatio legis* does not comply with the constitutional rules of maintaining an appropriate adjustment period.

It is justified to say that the Agricultural Code should be a stable legal act and implement the principles of agricultural law. The most popular is the French code, which is an extensive legal act regulating many issues, such as definitions (including agricultural property, agricultural holding, agricultural activity), land lease, agricultural markets, cooperatives, producer organizations, servitudes, access roads to farms, contracts, rural development, mountain agriculture, protection of agricultural land, and many others.

The topic of the Agricultural Code is worth addressing, but due to the necessity of considering various codification issues, which must be accompanied by scientific reflection, it is necessary to involve agrarian lawyers in the drafting work. Representatives of the doctrine are keenly interested in the work leading to the systematization and ordering of agricultural law regulations, also in the form of a code.

It is necessary to propose the establishment of a codification commission, whose work will allow not only for the technical systematization of existing legal provisions but also for the development of a general part, basic conceptual categories, and principles of agricultural law. This would also provide a basis for reliable work on the institutions of this field of law.

There is a need to specify fundamental concepts for agricultural law, such as agricultural property, agricultural holding, acquisition of agricultural property (agricultural holding), and farmer. The definitions of these concepts contained in the draft are a step backward even in relation to the very imperfect way they are defined in the Act on the Shaping of the Agricultural System. There is a need to clarify these concepts and more clearly define the relationships of the Agricultural Code regulations with the provisions of other laws, particularly the Act on the Shaping of the Agricultural System and the Act on the Management of Agricultural Property of the State Treasury.

Conclusions

In conclusion, it is essential to emphasize the crucial importance of comprehensive and coherent codification of agricultural law. There is a clear need to precisely define family farms, ensure economic protection of agriculture, and guarantee fair trade practices. Moreover, it is necessary to provide a more detailed definition of agricultural enterprises, strengthen consumer protection and food safety, and establish a practical transition period. Of particular significance is the deeper integration of EU agricultural policies and regulations into Polish agricultural law, as well as broader participation of agrarian scholars and legal practitioners in the codification process.

Undoubtedly, an advantage of this Draft Code is its attention to the issues faced by farmers in the context of finding ways to help them: protection against enforcement proceedings, streamlining real estate transactions, issues related to the farmers' ombudsman, or the sale of agricultural products¹⁰. The problem is that identifying these issues was not combined with good legal solutions. The ideas in the Agricultural Code themselves are fine, but the way they are written, I believe, will not benefit farmers at all, quite the opposite. Moreover, I would add issues related to the agricultural tax, farmers' social insurance, land consolidation and exchange, and the support of agricultural producer groups. The mechanism of Agricultural Chambers was unjustly omitted, as were the topics of agribusiness and innovation in agriculture, and climate protection in agriculture. The justification contains a lot about food security, but in the code, I do not see mechanisms to guarantee this food security. The Code affirms family farms, but there is not a word about large farms; why were they omitted? Where is the definition of an agricultural enterprise? Where are the issues related to spatial planning? What about the turnover of state-owned real estate? There is not a word about it in the code, as if we did not have such properties, but we do. What about leases, which bring a significant income to the state budget? What about ARiMR, that is, the functioning of public administration with respect to agriculture? Where are the rules on what farmers are not allowed to do in the field, in relation to consumer protection and food safety? Where is the real (not two-week) transition period, i.e., *vacatio legis*?

The omission of crucial topics such as agricultural taxation, farmers' social insurance, land consolidation, and Agricultural Chambers could significantly weaken the functionality and comprehensiveness of the Agricultural Code. These issues directly impact farm management, economic stability, and farmers' social security, and their exclusion requires reconsideration.

¹⁰ See R. Budzinowski, *Kilka uwag w sprawie propozycji opracowania kodeksu rolnego*, [in:] *Między prawem a polityką*, eds. B. Kaniewska, T. Wallas, K. Urbaniak, Poznań 2023.

Bibliography

- Bender P., Blajer P., Makowiec A., Truszkiewicz Z., *Prawo rolne*, Warszawa 2022.
- Budzinowski R., *Geneza prawa rolnego jako dziedziny legislacji*, „Czasopismo Prawno-Historyczne” 1(2008) p. 85-97.
- Budzinowski R., *Kilka uwag w sprawie propozycji opracowania kodeksu rolnego*, [in:] *Między prawem a polityką*, eds. B. Kaniewska, T. Wallas, K. Urbaniak, Poznań 2023.
- Budzinowski R., *Próby kodyfikacji polskiego prawa rolnego*, „Studia Iuridica Agraria” 2(2001), p. 27-38.
- Czechowski P., Marciniuk K., Niewiadomski A., Wojciechowski P., *Prawo rolne jako przykład mieszanej metody cywilno- i administracyjnoprawnej w kontekście krajowym i europejskim. Jego rola jako przedmiotu obowiązku*, [in:] *Dziedziny prawa, dyscypliny i metody prawnicze*, ed. T. Giaro, Warszawa 2013, p. 105-117.
- [https://orka.sejm.gov.pl/opinie9.nsf/nazwa/792_20230127/\\$file/792_20230127.pdf](https://orka.sejm.gov.pl/opinie9.nsf/nazwa/792_20230127/$file/792_20230127.pdf)
- <https://www.farmer.pl/finanse/poznalismy-pelna-tresc-kodeksu-rolnego-nowe-prawo-zostanie-przyjete,126766.html>
- Institucje prawa rolnego*, ed. M. Korzycka, Warszawa 2019.
- Kalinowski P., *Projekt Kodeksu agrarnego W. L. Jaworskiego: wybrane aspekty*, [in:] *Współczesne problemy prawa rolnego i żywnościowego*, ed. D. Łobos-Kotowska, Katowice 2019, p. 149-162.
- Lichorowicz A., *Kierunki zmian ustawodawczych w polskim prawie rolnym w ramach jego harmonizacji z ustawodawstwem Unii Europejskiej*, [in:] *Polityka rolna Wspólnoty Europejskiej i jej konsekwencje dla polskiego rolnictwa*, ed. A. Jurcewicz, Warszawa 2000, p. 93-100.
- Lubelsko-warszawska debata o projekcie Kodeksu rolnego*, eds. B. Jeżyńska, A. Niewiadomski, Warszawa 2023.
- Prawo rolne*, ed. P. Czechowski, Warszawa 2019.

Kodyfikacja prawa rolnego. Uwagi *de lege lata* i propozycje *de lege ferenda*

Streszczenie

Przedmiotem artykułu jest ewolucja ustawodawstwa prawnorolnego w Polsce. Największy rozkwit ustawodawstwa i doktryny prawa rolnego nastąpił z początkiem XIX wieku. W tym okresie ewolucja dwóch modeli regulacji prawa rolnego była zasadniczym, aktualnym do dziś sposobem spojrzenia na ustawodawstwo prawnorolne. Pierwszy z nich – model romański, szczególnie stosowany we Francji, Włoszech czy Hiszpanii – stawia w centrum regulację cywilistyczną z wszelkimi jej zasadami. Model ten odwoływał się do regulacji prawa prywatnego. Drugi z tych modeli, w litera-

turze nazwany modelem germańskim, charakteryzuje się naciskiem na normowanie stosunków prawnorolnych w drodze administracyjnoprawnej.

Autor omawia ideę kodyfikacji prawa rolnego w Polsce po 1918 roku. Kodeks rolny mógłby ułatwić stosowanie prawa, systematyzować regulacje i usuwać sprzeczności, co wspierałoby rozwój rolnictwa. Kluczowe jest precyzyjne określenie przedmiotu i zakresu regulacji kodeksu, który powinien obejmować tylko regulacje krajowe. W projekcie Kodeksu powinny znaleźć się podstawowe zasady prawa rolnego. Nie należy powtarzać przepisów z kodeksu cywilnego, lecz odsyłać do odpowiednich przepisów, w tym dotyczących dzierżawy. Wprowadzenie kodeksu powinno porządkować regulacje prawne w dziedzinie prawa rolnego. Kompleksowa wizja rolnictwa i prawa rolnego w Polsce powinna stanowić podstawę stworzenia kodeksu i jego nadrzędne *ratio legis*. Do prac nad kodyfikacją prawa rolnego powinno być zaangażowane szerokie grono specjalistów, zarówno praktyków, jak i teoretyków.

Słowa kluczowe: kodyfikacja, Kodeks rolny, rolnictwo, prawo rolne.