

Rules of competition in agriculture in the European Union law

(abstract)

The presented dissertation aims to analyse legal issues related to the protection of competition in agriculture within the context of EU legislation. The conducted research was aimed at identifying motives justifying the sectoral approach adopted by the EU legislator to tackle the issue of protecting competition in agriculture, identifying adopted preferences and ways of determining the relationship between the objectives of the Common Agricultural Policy (CAP) and the competition policy within the scope of their impact on EU agriculture, as well as clarifying the content of rules of competition in agriculture derived from Art. 42 TFEU and secondary legislation established on its basis.

Within the subject matter, the conducted research consisted in defining the scope of application of the public competition rules stipulated in the TFEU (Art. 101-109 TFEU) in EU agriculture. Consequently, with a research subject delineated as above, the dissertation established the scope of application in EU agriculture of rules of competition applying to undertakings and those that protect competition against distortions resulting from aid measures granted by Member States.

The main objective of the work was to analyse sectoral competition rules in agriculture adopted in EU law. It sought to determine whether and to what extent competition rules in agriculture stipulated in EU law reflect the nature of this area of the economy and therefore allow for proper implementation of the objectives of the EU's Common Agricultural Policy (CAP). In a broader context, the analysis was aimed at assessing the validity of introducing and maintaining a special competitive regime for EU agriculture. Implementation of the above-mentioned research assumptions required the use of the dogmatic-legal method. Meanwhile, interdisciplinary research was also required due to the association between the analysed issues and economics, agricultural economics and sociology (rural sociology).

The doctoral dissertation consists of 5 chapters.

Chapter 1 presents the motives for distinguishing the agricultural sector within the economic system. Based on the above findings, reasons for the application of a sectoral approach (agricultural policy) in agriculture were analysed. In particular, the analysis was aimed at demonstrating the complexity of economic, social and political relationships to the

functioning of the agricultural sector. Findings in this regard allowed for the establishment of a *ratio* for the introduction of specific state intervention instruments in EU agriculture.

In the next chapter (Chapter 2), the assumptions underlying the establishment of a competition policy were analysed. The basic objectives related to the establishment of legal instruments for the protection of competition have been defined. Theoretical issues relating to the protection of competition in agriculture within the scope of competition protection in agriculture were discussed under a theoretical-legal framework (with particular emphasis on the functioning of the agricultural sector within the so-called *food chain*). In this regard, it was important to identify the importance of the competition mechanism and the main threats to its functioning within the agricultural sector.

Chapter 3 was intended to define the relationship between competition policy and agricultural policy in light of the provisions of the TFEU. Within this scope, the normative bases for distinguishing both policies in the TFEU were discussed first. The impact of the definition in Art. 42 par. 1 of the TFEU of general competition rules' scope of application to the agricultural sector was also analysed.

An analysis of the scope of application of competition rules concerning undertakings (Art. 101 and 102 of the TFEU) to the agricultural sector was the subject of the analysis in Chapter 4 of the work. Within the conducted research, the nature and scope of the prohibitions in Art. 101 and 102 of the TFEU have been established. In addition, detailed analysis was applied to exclusions stipulated in secondary legislation regarding the application of general competition rules for undertakings in relation to the EU agricultural sector (Regulation No. 1308/2013 establishing a common organisation of the markets in agricultural products and Regulation No. 1184/2006 applying certain rules of competition to the production of, and trade in, agricultural products).

Chapter 5 addresses the problem of granting state aid to EU agriculture. In this respect, the assumptions concerning the nature and the scope of permissible Member States' aid measures for the agricultural sector were indicated, with special focus on activities aimed at assuring proper implementation of CAP objectives.

The research performed in the work has led to the following conclusions on protection of competition in agriculture:

1. competition rules in agriculture stipulated in EU law are an expression of a sectoral approach to competition protection. Overall, the issue of competition protection in agriculture, including in the scope in which it is undertaken at the level of EU law, comes down to the relationship between agricultural policy and competition policy. Within this area there is an

overlapping of spheres of normative influence assumed within each of these policies. Since the agricultural policy and the competition policy are not always consistent in regard to the pursued objectives and employed intervention instruments, it is necessary for the legislator to express their preference for effects expected as a result of the intervention measures taken in protecting competition in agricultural markets (Art. 42 of the TFEU);

2. EU law has adopted a model of partial exceptions to the application of general competition rules to the agricultural sector;

3. interpretation of Art. 42 of the TFEU indicates that: 1) free competition is one of the essential elements for the proper functioning of EU agricultural markets; (2) EU bodies (the European Parliament and the Council) are charged with introducing legislative solutions aimed at ensuring competition in the agricultural sector; (3) separate rules of competition form part of the CAP; (4) separate competition rules express the granting of preferences in the field of competition protection to the objectives of the CAP; 5) the designation of separate competition rules in the agricultural sector takes place at the level of secondary legislation as a result of the European Parliament's and the Council's exercise of legislative powers under Art. 42 of the TFEU; 6) the creation of separate competition rules for agriculture occurs through discretionary powers of the EU authorities in interpreting the objectives of the CAP;

3. competition rules in agriculture are set at the level of secondary legislation. In the case of these solutions, it is distinctive that protection instruments stemming from general competition rules are transposed to the agricultural sector. Preferences for the agricultural sector are relatively narrow in nature and limited to: 1) the achievement of the CAP's objectives, 2) the promotion of co-operative forms of agricultural activity; 3) interventions on agricultural markets in situations of crisis.

Paula Popowicz