

C.E.D.R.



**European Council for Agricultural Law
Comité Européen de Droit Rural (C.E.D.R.)
Europäisches Agrarrechtskomitee**

**XXII European Congress and Colloquium of Agricultural
Law – Almerimar-El Ejido (Spain) – 21-25 October 2003**

**XXII Congrès et Colloque Européens de Droit Rural
– Almerimar-El Ejido (Espagne) – 21-25 octobre 2003**

**XXII Europäischer Agrarrechtskongress mit Kolloquium
– Almerimar-El Ejido (Spanien) – 21-25 Oktober 2003**

Commission I – Kommission I

**AGRICULTURE, ENVIRONMENT AND FOOD PRODUCTION:
THE ROLE AND LIABILITY OF THE FARMER/GROWER**

**AGRICULTURE, ENVIRONNEMENT, ALIMENTATION:
FONCTIONS ET RESPONSABILITES DE L'AGRICULTEUR**

**LANDWIRTSCHAFT, UMWELT UND ERNÄHRUNG:
ROLLE UND HAFTUNG DES LANDWIRTS**

National Report – Rapport national – Landesbericht

Moldova – Moldau – Moldau

Farmer Responsibility for the Condition of Natural Environment in the Republic of Moldova

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The Republic of Moldova is a new country and it counts its existence since 1991. In its transition from a province of highly centralized totalitarian country with almost no private property to an independent country based on market economy and private property, the farming system was subject to radical change. The privatization of land that transformed the agricultural workers of state land into landowners has required very quick development of a new legal framework. The task was significant also due to the high share of agriculture in country's economics. In 1991 the share of agriculture in the Gross Domestic Product was 42 percent. As many as 34 percent of the population worked in agriculture, while disturbances in industry caused additional people to rely solely on agriculture for their subsistence.

In these difficult conditions the legal framework needed for the farmers, farmer activity and agriculture had to match two basic needs with contradictory tendencies. On the one hand, there was an urgent need to promote rapid development of the agricultural sector in order to improve country's economic indices and to counteract extreme pauperization of the population resulting from transition misbalances. On the other hand, the need to protect the natural resources from degradation was imperious, they being especially vulnerable in conditions of political, economic and social instability.

Thus, a number of laws were passed during this period in order to provide guidelines for both protection of the environment and for the promotion of farming activity in new conditions. Among the most important were the following: the Land Code, Law No. 828-XII of December 25, 1991, the Water Code, Law No. 1532-XII of June 22, 1993, the Law on Management of Land Property, Cadastre and Land Monitoring (1993), the Law on the Tax on Land, the Law on the Normative Price of Land No. 1308-XIII of July 25, 1997, the Law on Environmental Protection No. 1515-XII of June 16, 1993, the Law on Payment for Pollution of the Environment (1998), the Law on Expert Evaluation and the Evaluation of Impact on Environment No 851 of May 29, 1996, etc.

Additional laws bearing connection to farmers and farmer activity are as follows: the Law on Potable Water, No. 272-XIV of February 10, 1999, the Law on Air Protection No. 1422-XII of December 17, 1997, the Law on International Treaties of the Republic of Moldova No. 595-XIV of September 24, 1999, the Law on Green Spaces of Urban and Rural Localities No. 591-XIV of September 23, 1999, the Law on Plant Protection No. 612 of October 1, 1999, the Law on Tourism No. 798-XIV of February 11, 2000, the Law on Public Land Plots and their Borders No. 981-XIV of May 11, 2000, the Law on Access to Information No. 982-XIV of May 11, 2000, the Law on Amelioration and Afforestation of Degraded Land No. 1041-XIV of June 15, 2000, the Regulation on Cadastre of Natural Zones Protected by the State No. 414 of May 2, 2000, the Law on Natural Resources of June 19, 1997, the Law on Consumers' Right Protection No. 1453-XIII of May 25, 1993, etc.

These and other laws are complemented by a number of Regulations, Instructions, Guides prepared by the adequate authorities for the purpose of effective enforcement of the laws. The international standards in environmental protection adopted for use as national standards, such as the ISO 14000 series, along with the ecological audit, are also effective instruments for prevention of pollution and other types of soil degradation through farmer activity.

A very important provision of the legislation is included in Article 5 of the Land Code, which says: "The ecological protection of land plots has priority in relation to any other type of

activity". This priority is valid in respect to any type and any owner of land, including agricultural land and privately owned land.

The Land Code of the Republic of Moldova having very specific provisions as to the liability of landowners and land users in respect to the quality of the land, however, there is still a need for a code of good agricultural practices. This need is conditioned by the fact that many current landowners have no farming skills and knowledge having become farmers either through inheriting land from their parents, or undertaking farming activity upon becoming unemployed in the city. Moreover, many employees of ecological inspectorates and local public authorities, while entitled to ensure observance of land protection laws, do not have expertise in soil conservation actions in post privatization conditions with fragmented plots, bigger crop diversity, existence of a big number of land owners in each hydrographic basin, etc.

The existence of a code of good agricultural practices is also needed by young farmers, researchers and newly elected local officials (mayors, village council members) who may have no environmental protection, farming or agronomic backgrounds but who according to Article 10 of the Land Code need to exercise state control of the use and protection of land plots and in compliance with Article 4 of the Water Code need to exercise the state control over the use and protection of water. In compliance with Article 34 of the Law on Environmental Protection public authorities from the area of economics along with research institutions and environmental protection authorities are obliged to offer to the farmers non-polluting agricultural technologies based on the principles of ecologic agriculture, capable of assuring both the necessary amounts of production and their quality and the protection and amelioration of soils. They also have the responsibility for development of annual programmes for fighting soil erosion, flooding, bogging, salinisation, excessive drying, of land plots, along with actions for prevention of landslides.

While there are no specific norms dealing with civil liability of the farmers, the Article 3 of the Law on Environmental Protection says that one of the main principles for environmental protection is the "liability of all physical and legal persons for damage caused to the environment, the responsibility to prevent, limit and fight pollution, as well as to compensate damages caused to environment ...", which implies the farmers along with other economic subjects or individual citizens. Article 32 of the same Law says the "the economic agents irrespective of the form of property are obliged to assure maximal saving of energy, water, to undertake actions for prevention of landslides, not to allow soil erosion, salinization, secondary bogging, compaction or pollution with mineral nutrients and pesticides, to observe the norms for application of mineral nutrients and pesticides in soil, to observe norms for application of chemicals in agriculture." The provision implies farmers, industrial companies, as well as individuals and it refers to all types of land, including agricultural land, residential spaces, leased public or private land, green spaces of cities, zones designated as environmental protection areas, private or public woodlands.

The liability of the farmer for inadequate use of his/her land is expressed in Article 23 of the Land Code, which says: "The right to use the land is withdrawn in case of...land exploitation by methods conducive to soil degradation, its chemical, radioactive and other type of pollution, to degradation of the ecological state, as well as in case of exploitation of irrigated land by methods conducive to land bogging, secondary salinization or appearance of erosion spots through irrigation". These provisions do not apply to land provided to the citizens for buildings of houses, auxiliary buildings and for near the house garden.

Another very important liability of the farmer is described in Article 24 of the Land Code which says: "In case the owner of agricultural land does not cultivate it and undertakes no actions for soil protection and amelioration, the local public authorities have the right to apply contravention sanctions and will sent him/her written summons about the fact". If the owner does not act as required in the provision above he/she will lose his/her ownership title over the land through court decision, court proceeding being initiated by the local authority. In such case the landowner is not entitled to any compensation.

In the same cases as described in the provision cited above the land user is devoid of the right to use the land for the same reasons as the land owner by court decision according to Article 25 of the Land code. The landowner, the local authorities or other affected parties may initiate court proceedings.

The legislation of the country does not have specific provisions about pollution of underground water by nitrates similar to the one stipulated in Directive 91/676/EEC of December 12, 1991. However, the stipulation about the need for observance of environmental protection rules in application of mineral nutrients (inadequate use of which may conduct to nitrate pollution) exists in the Land Code, the Law for Environmental Protection and Water Code. More specifically, application of agricultural chemicals including mineral nutrients is forbidden in river and lake protection zones, into water sources and natural reserves. Where it is allowed, the admissible norms stated should be observed. Article 94 of the Water Code states liability of all physical and legal persons for water pollution with mineral nutrients and toxic substances. The warehouses for agricultural chemicals and the premises for preparation of their solutions are forbidden as well in the abovementioned zones. The Directive is very important for the conditions of Moldova, where polluted water exists in many places and may conduct to further pollution.

In case there are suspicions or facts about possible pollution any company, institution or organization irrespective of function or type of property may be subjected to an ecological audit which may be initiated by environmental protection agencies or local authorities, nongovernmental organizations, citizens, etc. The procedure of the audit is described in the Regulation on Ecological Audit approved by the Resolution of the Government No. 395 of April 8, 1998. While clearly the Regulation is oriented towards industrial enterprises, any animal or bird growth farm would fall under its jurisdiction, since any ecological audit needs to study the impact on water, soil, air, along with other parameters as noise, vibration, smell, etc.

Prevention of soil and water pollution is paid additional attention through the Regulation on the Evaluation of the Impact on Environment, which is an annex of the Law on Expert Evaluation and Evaluation of Impact on Environment, providing a list of enterprises and activities that need the evaluation of impact on environment prior to planning and blueprinting works. The activities or enterprises related to farming which require the impact evaluation on environment are: creation of agricultural-industrial farms for growth of bovines, porcine, ovine and birds, industrial orchards and vineyards with area over 500 hectares, systems for irrigation and land reclaiming for areas of 1000 and 100 hectares, respectively, as well as greenhouse farms with greenhouse area over 24 hectares.

Diffuse pollution of soil and water within the country is common, through agricultural activity, industrial activity, waste disposal activities, services, such as, car servicing and fuelling, inadequate storage of agricultural chemicals, however, no regulation regarding diffuse contamination exists. Mainly, diffuse pollution is caused by a combination of factors, including lack of adequate waste disposal premises for medicinal waste, small capacity or bad state of repair of water purification plants in factories, old equipment in many fuelling stations, very old agricultural equipment and equipment of processing industry, etc. The fact that no special law on diffuse contamination exists allows for some sources of pollution to be overlooked, unless an ecological audit had been initiated, which needs to examine all the aspect of the case in interconnection. Another law, which may prevent or curb diffuse contamination, is the Law on Production and Domestic Waste No. 1347, of October 9, 1997. The law states the responsibility of companies and physical persons for primary accounting of any waste, including highly toxic and dangerous waste, resulting from any type of production activity.

A special standard was developed (GOST 17.1.3.11-84) prescribing the rules for storage of mineral nutrients and disposal of packaging material. In addition, there is also a special Hygienic Regulation (adopted in 1996) controlling the protection of shallow wells and springs, which are the main water source for village people in Moldova.

The Republic of Moldova being a European country, its people opted for integration into the European Union. While the process of actual integration may take a long time, the preparation for harmonization of Moldovan legislation to the European Union one has started initially through expert evaluation of the most important law drafts by European Union experts, while currently, a plan exists to create working groups comprising staff of the Ministry of Ecology, Building and Territory Development, as well as individual experts in order to bring Moldovan legislation closer to the European Union one, especially in the area of land, water protection and air protection, waste management, environmental protection, chemicals and genetically modified organisms, etc. It is specified that the working groups will develop a strategy for legislation harmonization, approve a schedule for enacting the harmonized version of laws, work for the development of new laws in compliance with the European Union legislation. In the framework of the project "Preparatory EU Approximation Work of the Republic of Moldova in Integrated Pollution Prevention Control and Waste Management" the Republic of Moldova has prepared a strategy for adjusting existing legislation to several EU Directive, including Waste Framework Directive (75/442/EEC), Hazardous Waste Directive (91/689/EEC), Directive on Incineration of Waste (2000/76/EC), Landfill of Waste Directive (1999/31/EC) and Disposal of PCB/PCTs Directive (96/59/EC). Several UE directives referring to the air sector was also approved for harmonization.

The general principles on which the legislation related to farmer activity is based are as follows:

- The environmental protection is a national priority and an essential element of the political and economic policies of the state,
- Priority of human health and welfare as opposed to other objectives of the natural resources utilization,
- Protection of the natural factors of the environment through rational use of resources for the benefit of current and future generations,
- People's participation in the activity for environmental protection and amelioration,
- Interdiction of pollution,
- The principle "the polluter pays".

All categories of legal documents referring to the farmer activity and environment need to take into consideration these principles. The strategy towards higher focus on prevention of pollution adopted by the Moldovan legislation makes for wide application of economic tools, such as promotion of non-polluting technologies, management of materials with prevention of losses, including losses of waste materials, payment for damage to environment, as well as promotion of works for environmental protection works.

Article 75 of the Law on Environmental Protection forbids the storage of mineral nutrients and pesticides in unauthorized places, as well as their application in zones with special protection status. It also forbids the treatment of seeds with chemicals in sites not specifically designed for such activity. The application of pesticides during flowering of crops pollinated by insects is also forbidden. The traces of toxic chemicals and pesticides in soil, water, fodder and food of vegetal or animal origin are not allowed beyond maximal limits.

The soil management policy of the state is based on two principles described in Article 33 or the Law on Environmental Protection: 1. Recognition of the fact that the maintenance of the natural resources, biodiversity, rural and cultural landscapes is as important as production of foodstuffs and obtaining profit from agriculture and 2. Promotion of sustainable agriculture with limited application of mineral nutrients and pesticides, use of ecologically harmless technologies, restoration and maintenance of the ecological balance.

Within agricultural lands there are no special zones designated as vulnerable as regards to application of chemicals. It is only within state protected areas that the application of pesticides is forbidden or it is allowed only in specific cases under special license. However,

due to intensive use of chemicals of different type in the past both on public and private land there are zones where the admissible limits for certain chemicals are exceeding the maximum admissible limits. These zones might be qualified as vulnerable.

During land privatization no chemical analyses of soils were made due to the lack of funds, the quality of the soils being assumed to be equal to the old available data (some of the data being as old as to date 20-25 years prior to privatization date). For such zones there is need for a special norms. Their lack may conduct to pollution beyond any possibility for recuperation. However, at least for the private land the belief is that the owners of vulnerable zones will follow common sense and not allow pollution that might lead to decrease of land productivity and land value. The situation is more complicated in cases where such land has been leased under long-term contract (15-25 years) with no such incentive.

Other type of vulnerable zones may be considered the formerly humid zones, which were transformed into agricultural lands. While there are no specific provisions of the law declaring these zones vulnerable, the Law on Protection Zones of Rivers and Lakes of 1995 forbids agricultural activity and pasturing in such zones. However, due to low standards of life of the rural population during transition period this law is frequently violated through illegal cultivation of arable crops in these areas and pasturing of cattle. In order to avoid these trends managerial plans were prepared by NGO Biotica with the support of the Ministry of Environmental Protection, the state agency "Moldsilva" Ecological Inspectorates Causeni and Stefan-Voda and the local authorities. for the zones of the floodable plain of Dniester between villages Olanesti and Cromcaz where economic activity is allowed, and for the river protection zone Purcari-Cromcaz,. so as to improve productivity, thus making unnecessary the law violation in the protected zones. These activities are a precursor for a plan to establish a national park on Lower Dniester, thus creating more adequate conditions for the protection of the zones.

The farmers and other land users are allowed to use mineral nutrients and plant protection chemicals on agricultural lands. However, not any chemical is allowed. In compliance with Law on Harmful Products and Substances of October 16, 1997, the Ministry of Agriculture compiles a List of substances and products for chemical and biological plant protection as well as growth stimulators that needs to be approved by a special National Commission. The same Ministry has the responsibility to check the concentration of mineral nutrients in soil, fodder, vegetal and animal agricultural products through a network of laboratories. The Sanitary-Hygienic Standards on Maximal Permissible Concentrations, Indicative Safe Exposure Levels, Indicative Permissible Quantity, The Sanitary-Hygienic Regulation on Storage, Neutralization, Use and Burying of Toxic Substances and Waste are also of considerable importance for prevention and control of agricultural land and agricultural products pollution

For each of the agricultural chemicals admitted for use in the country there are special norms as to the quantity to be used per hectare. In case the admissible norms for use of chemicals are exceeded the respective persons are guilty of administrative infringements. Article 52 of the Code on Administrative Infringements deals with cases of land legislation violations. In case of agricultural land pollution with chemicals and radioactive substances citizens pay a penalty equal to five minimal salaries and officials representing companies – up to ten minimal salaries, which is argued to be a very low penalty by environmental protection organizations. Also infringements are the destruction of the fertile layer, non-application of actions for prevention of soil erosion or other degradation processes, not undertaking actions for soil quality improvement. The same penalty applies as in case of pollution.

Other administrative infringements applicable to farmers are the violation of the established procedures and rules for trial and adaptation of vineyard varieties, for sale of vineyard nursery products, for creation of new vineyards, for clearing of old vineyards. A penalty of up to two minimal salaries is imposed for not undertaking actions for destroying weeds.

In order to avoid soil and water pollution a law was adopted "On allotting Licenses for Certain Types of Activity (Law No. 332-XIV of March 26, 1999) which provides for the need to apply for the license for the following agricultural activities: production of nursery material for

orchards and vineyards, production of seeds, production of animals for reproduction and sale, veterinary services, production, import and sale of agricultural chemicals, biological preparations and growth stimulators, production, storage and sale of tobacco and alcoholic beverages. The Ministry of Agriculture and Processing Industry provides licenses for such activity. The Ministry of Ecology, Building and Territory Development, has the right to provide license in the following areas related to farming activity: use and processing of waste, use of natural resources, collection and sale of spontaneously growing plants, including medicinal ones, catching of small animals, fishing in natural water resources.

The above-described Law controls the type of activity, conditions for its exercise, the rights and liabilities of the license owner. The licenses are approved by special commissions that have further responsibility for the control of the activity allowed through provision of license. The terms of the license state the amounts of noxious substances authorized for emission into the environment, the method for their collection, storage, emission, and the amounts to be paid for the pollution of the environment. Within the limits covered by the license there is no additional liability for farmers.

Certain types of farmer activity are allowed in protected zones as prescribed by the Law on the Fund of Natural Territories Protected by the State, of July 16, 1998 with jurisdiction over scientific reserves, national parks, nature monuments, nature reserves, landscape reserves, resource reserves, as well as botanical gardens, dendrological gardens, monuments of horticultural art and zoological gardens. For example in compliance with Article 26 of the Law in certain zones of scientific reserves pasturing and hay cutting activity is allowed according to prescribed technology. The introduction of any mineral nutrients, herbicides, pesticides and other chemicals is forbidden along with collection of plants and animals, introduction of new species, burning of grass and cane, entertainment activities.

In National Parks in compliance with Article 34 of the same Law, farmer activity is allowed in certain zones of the park, namely cultivation of crops traditional for the region, using biological methods of plant protection. Agricultural chemicals are allowed in strict adherence with prescribed norms.

All protected zones, according to Article 85 of the same Law, have buffer zones around them, which may belong to private or corporate landowners. Traditional farming activity is allowed in such zones only inasmuch as it does not conduct to dramatic changes of natural processes.

Although the farmer in Moldova has the responsibility not to allow the pollution of the water and land, there are no specific provisions in the Law for Payment for the Pollution of the Environment related to the pollution of water and soil through farming activity. However, Article 2 of the law states that any physical or legal person undertaking activity which conducts to the pollution of the environment are subjects of the law. Thus, theoretically any farmer who has applied pesticides in excess of the norms, or who has admitted soil loss with high amounts of mineral nutrients in the neighboring rivulet has liability in compliance with the law. In reality no such cases were registered in the Republic of Moldova

Although the legislative framework of farming activity in the Republic of Moldova is satisfactory and it is continuously improving, the knowledge of laws by the population and their enforcement of laws is still at a low level due to the low enforcement capacity of the authorities, reluctance of authorities to enforce laws which will diminish the subsistence capacity of rural families, the insufficient public funds for ecological training and education, high quality extension services, physical infrastructure for control and monitoring works. Another important aspect is that the legislative framework tends to be more prohibitive than promoting, with few effective economic tools to encourage cleaner agriculture in harmony with the environment.

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