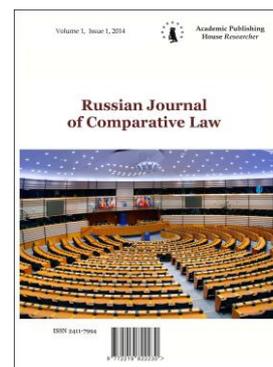


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Articles and Statements

Legal Framework of International Cooperation of the Republic of Serbia in Agriculture

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Abstract

The main aim of this article is to determine and analyse the legal framework of international cooperation of the Republic of Serbia in agriculture. In this paper, the formal-legal method, the method of text analysis, and the statistical method have been used. When it comes to the materials and sources, both domestic and international regulations in force have been used, as well as the concluded international agreements and conventions, together with international acts, newspaper articles, relevant scientific papers and databases. The starting point in this research has been that agriculture, as an extremely important economic area for Serbia, and for the most countries in the world, is a significant segment of the international economic cooperation of Serbia. The legal framework governing this cooperation can be classified as the global level, the continental, i.e. the European level, and the regional level. Simultaneously, at all levels, the basic legal acts regulating the international cooperation of the Republic of Serbia in agriculture have been determined, whether they are signed international agreements, both multilateral and bilateral, or international recommendations and standards, i.e. recommended acts for legal harmonization and their implementation in the process of international integration.

Keywords: law, agriculture, international cooperation, FAO, WTO, EU, Russian Federation, China, India, CEFTA, Serbia.

1. Introduction

Agriculture, as an economic area, is one of the segments of the international economic cooperation of the Republic of Serbia. Thereby, agriculture is an extremely important part of economics, both for Serbia and internationally. Namely, traditionally, Serbia is an agricultural country. In addition to this, according to the latest data, agriculture has a share of about 47 percent in the GDP of the Republic of Serbia, with about 1.3 million farmers, which is about 17 percent of the total population. The contribution of agriculture to the Serbian foreign trade balance is particularly significant, given the fact that the data for 2013 indicated that the foreign trade surplus of agriculture amounted to about 912 million euro. According to the general assessment, it is considered that in the agriculture, Serbia has the potential to increase its exports to large markets, such as Russia and China.

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Internationally, agriculture is considered a strategic activity, and agricultural products are "sensitive products" since agriculture provides nutrition to population, i.e. the stability of the country in crisis situations. Therefore, agriculture has a special status in international agreements as a result, agricultural products are regulated separately from other (industrial) products. This can be seen at the global, continental and regional levels. Namely, the Food and Agriculture Organization (FAO) was established within the United Nations, and special agreements in the field of agriculture (and food) were concluded within the World Trade Organization: The Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary Measures ([SPS Agreement](#)). At the continental or European level, the importance of agriculture is reflected in the share of agricultural expenditure in the EU total budget (39 % in 2015) ([EC, 2017](#)). Also, agriculture is especially regulated at the regional level, that is, within the framework of the CEFTA 2006 ([CEFTA](#)).

The Republic of Serbia is a member of all important international organizations, as well as signatories to all principal international agreements in the field of agriculture. Firstly, at a global level, Serbia is a fully-fledged member of the FAO. Also, Serbia has committed itself to the implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures, as well as other international agreements in this field. Besides this, in the process of joining the European Union, Serbia has signed the Stabilization and Association Agreement (SAA) which regulates the issue of agriculture, and has committed itself to harmonize its regulations in the field of agriculture with the *acquis communautaire*. At a regional level, Serbia is a signatory to the CEFTA which also regulates agricultural products. Furthermore, Serbia has concluded several bilateral agreements in the field of agriculture, on general, as well as on individual issues.

2. Materials and methods

When it comes to the materials and sources, both domestic and international regulations in force have been used, as well as the concluded international agreements and conventions, together with international acts, newspaper articles, relevant scientific papers and databases. In this paper, the formal-legal method, the method of text analysis, and the statistical method have been used.

3. Discussion

1.1. *Constitutional basis*

According to the Constitution of the Republic of Serbia of 2006, confirmed international treaties and generally accepted rules of international law are part of Serbian legal system ([Ustav, 2006; clan 194](#)). This provision for the first time fully equalled the confirmed international agreements and generally accepted rules of international law with the national sources of law, primarily with the regulations and official legal interpretations and opinions. Therefore, institutions in Serbia are able to make decisions based on international law that has not been ratified by the National Assembly ([Dabovic, 2017; 15](#)). This mixed approach to the application of international law, which relates to the entire Serbian legal system, is of a particular importance in the field of agriculture, since various aspects of this field are regulated by international regulations, at a global, continental and regional level. Namely, at a global level, agriculture is regulated in detail by the World Trade Organization agreements, systems, or collections of technical rules ([HACCP and Codex Alimentarius](#)) and international agreements on individual issues. At the continental level in Serbia, the law of the European Union can be applied, since EU legislation is generally accepted in Europe, mainly by the member states and candidate countries, but also by third countries, which voluntarily apply it for easier business cooperation with the member states (like the EFTA countries). Also, bilateral agreements in the field of agriculture can be directly applied.

1.2. *International cooperation of Serbia in agriculture at the global level*

The importance of international cooperation in agriculture at the global level comes primarily from the large number of countries involved in this cooperation. Namely, the international organizations and multilateral agreements most often comprise countries that commit themselves to cooperating with other member states, i.e. signatories within them, thus achieving global uniformity in the handling of certain issues. In this way, easier cooperation between economically, politically and culturally different countries is possible in trade of agricultural products, as well as in their production, and also in other economic, and non-economic areas. In the field of

agriculture, the Republic of Serbia has largely applied the FAO rules within the *Codex Alimentarius* (CA), the relevant World Trade Organization agreements (although not yet a member of the WTO), the HACCP system, and several individual conventions on various issues, such as: plant health; protection of new varieties of agricultural plants; plant genetic resources, sugar production and marketing; labour inspection in agriculture; and protection of vertebrates intended for experimental and other purposes.

1.2.1. *Food and Agriculture Organization*

Serbia has been a member (initially within ex-Yugoslavia) of the Food and Agriculture Organization since the founding of this organization, and after gaining its independence, this membership was succeeded. According to a FAO report from 2016, the cooperation of this organization with Serbia continued in 2001, following the break caused by international sanctions, and has been steadily increasing ever since, as Serbia has provided sustainable support to the goals of the FAO. The technical support provided by the FAO in the previous period focused on supporting the development of diverse policies, investment support, sustainable development and social inclusion, especially of farmers, as well as strengthening the cooperation and stability in the region. Also, the cooperation included post-flood recovery (from 2014) and risk management (FAO, 2016).

CA is a collection of internationally recognized standards, rules of practice, guidelines and recommendations relating to food, including production and food safety. The CA text was adopted and updated by the Commission ([Codex Alimentarius Commission](#)), founded by the FAO and the World Health Organization in 1961. The main proclaimed objectives of the Commission are the protection of consumers' health and the provision of fair practice in the international food trade. Therefore, the WTO has recognized CA as the international reference basis for the settlement of disputes related to food safety and consumer protection. CA includes all foods, processed, semi-processed or raw, whereas more attention is paid to foods that are directly available to consumers on the market. As well as food standards, CA contains standards that cover other issues in this area, such as food labelling, food hygiene, additives, pesticides, and safety assessment procedures of the food that is created by biotechnology. Additionally, there are guidelines for inspection control of food import and export, as well as certification of the food system (FAO, [Understanding...](#)).

1.2.2. *World Trade Organization*

In 2005, the Republic of Serbia submitted a request for accession to the WTO on a special memorandum outlining trade policy in various fields, including agriculture. In 2006, the Working Group for Serbia started negotiations, 13 meetings were held by 2013, 12 bilateral protocols on access to goods and 9 bilateral protocols on access to services were concluded.

The accession country is expected to harmonize all the regulations regarding foreign trade directly or indirectly with the WTO rules. This means that a significant liberalization of the foreign trade regime must be carried out in a way that it is in line with the WTO rules. Serbia, although not yet a member of the WTO, has committed to the application of the rules of this organization, or its agreements, the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Agriculture.

The Agreement on the Application of Sanitary and Phytosanitary Measures refers to the harmonization and implementation of regulations in the field of food safety, veterinary medicine and plant protection and health. It allows Member States to establish their national standards in these areas that must be medicine-based and can only be applied to the extent necessary for the protection of humans, animals or plant. All Member States have adopted measures to ensure that food is safe for consumers, as well as to prevent the spread of pests or diseases among animals and plant. These sanitary (human and animal health) and phytosanitary (plant health) measures can be different and can be applied to both the production and the import of food. The main objective of the Agreement is to retain the sovereign right of each member state to provide the level of healthcare that is considered appropriate in certain circumstances, but also to ensure that these sovereign rights are not abused for protectionism and do not lead to unnecessary barriers to international trade.

What is more, within the framework of the Agreement, the procedure for the adoption of national regulations in this area is determined by the annexes, as well as the establishment of contact points and procedures for notification, control, inspection and issuance of approvals.

By the Agreement on Agriculture, the Parties firstly undertook that all non-tariff measures be replaced by customs and thus increase the transparency and security of trade in agricultural products ("tariffing"). In addition, members have pledged that tariffs received after tariffication in developed countries will be 36 percent on average, with a minimum reduction of 15 percent for individual products, while tariff reductions in developing countries will be reduced by 24 percent on average, whereas the minimum reduction for individual products should be 10 percent. The period for reducing customs is six years for developed countries and 10 years for developing countries. In the event of a significant fall in the price of imported products or the rise in the volume of imports, it is envisaged that a member may, to mitigate the negative consequences of the application of the Agreement, postpone the undertaken obligations temporarily. Also, the Agreement provides that Member States may retain the existing import restrictions for a product for non-commercial purposes (such as food safety, environmental protection, etc.). Furthermore, the system of tariff quotas has been introduced, which ensures the continuation of imports of the same quantities of agricultural products before the commencement of the Agreement. In this way, the reduction of customs rates is applied only to quantities within a certain quota, while considerably higher customs rates are applied for the quantities exceeding this quota (Popovic, Katic, 2007; 3-61).

1.2.3. *Hazard Analysis and Critical Control Point (HACCP)*

Hazard Analysis and Critical Control Points (HACCP) is a systematic preventive approach to food safety that identifies physical, chemical and biological hazards in production processes that can cause the finished product to be unsafe (FAO, 2013). As defined herein, HACCP is a set of hazard prevention measures and can be used at all stages of the food chain, starting from food production and the preparation process, including packaging, distribution, and more. This system has been accepted by the FAO and the World Health Organization, as recommended by the WTO.

HACCP is based on the following principles: conducting a hazard analysis; identification of critical control points; establishing critical boundaries for each critical control point; establishing a critical monitoring points; establishing a corrective action; establishing a procedure to ensure that the HACCP system functions adequately. The HACCP system works by first, identifying risky production points, or the points in the technological process in which product contamination may occur. Then, preventive measures for control are taken that will prevent contamination. One of the most important aspects in the production and distribution of food is its quality and safety, and it is the responsibility of every manufacturer to provide quality food to the market with certain nutritional properties and sensory qualities, but at the same time hygienically clean, safe food, which will favourably affect the health of consumers. Therefore, the main goal of the HACCP system is the production of safe food products. This system implies determining the responsibility of all participants in the food production chain for the safety of food. This means that, if there is a risk to the health of consumers, all participants are obliged to take measures without delay to prevent harmful consequences (for example, the product may be withdrawn from sale) and inform the competent authorities thereof.

1.2.4. *Multilateral conventions and bilateral agreements*

At the global level, The Republic of Serbia achieves international cooperation in the field of agriculture with international organizations, as well as within multilateral conventions and bilateral agreements, regulating certain issues of importance for agriculture. Thus, Serbia is a signatory, or is considered a signatory, in multilateral conventions such as: International Convention on Plant Protection, International Convention on protection of new varieties of plants, International Agreement on plant genetic resources for food and agriculture, International sugar agreement, Convention on labour inspection in agriculture, and European Convention on protection of the vertebrates intended for experimental and other scientific purposes. In addition, Serbia has concluded bilateral agreements in the field of agriculture with India (Zakon o potvrđivanju..., 2010), Tunisia and Israel. Also, several bilateral agreements in veterinary medicine and animal health were concluded.

An agreement between India and Serbia on cooperation in the field of agriculture and related sectors was concluded in 2009 with the intention to develop and improve economic, scientific and technical cooperation in the field of agriculture and food industry. Namely, the contracting parties have agreed to stimulate the development of economic, scientific, technical and business relations

in the field of agriculture and food industry. In addition, the contracting parties are to facilitate the establishment of institutional links between enterprises and other economic entities of the two countries in this area. The cooperation between the two countries pursuant to this agreement shall take place in the following areas: Exchange of the scientific and technical information; organizing training programmes, seminars and visits by experts and consultants; exchange of quality hybrids of crops and vegetables and gene pool of fruit; development and introduction of modern technologies in the field of agriculture and food industry; harmonization/cooperation in veterinary, phytosanitary and other regulations with international standards; the improvement of agricultural trade between the two countries, and others. To that end, the contracting parties agree to establish a Joint Commission to monitor the implementation of this Agreement. The Joint Commission meets at least once a year alternately in the Republic of India and the Republic of Serbia.

The General Directorate for Quality Control, Inspection and Quarantine of the People's Republic of China and the Ministry of Agriculture of the Republic of Serbia concluded the Memorandum of Understanding on Cooperation in the Field of Granting Food Safety Guarantees for Import and Export in May 2017. Moreover, on this occasion, a protocol was signed on the exchange of scientific information related to *Nodular dermatitis*, i.e. lumpy skin disease of cattle. The memorandum is umbrella document which is supposed to allow Serbia to export goods of plant and animal origin to China, primarily regarding to various types of meat, milk and dairy products, corn, sugar beet and dry plums. The signed protocol on *Nodular dermatitis* is important since Serbia got the disease under control last year and received recognition from the EU for defending Europe's territory. Additionally, China's representatives submitted a questionnaire to the Serbian side. The questionnaire is related to the Serbian export of pork meat, which is the starting point for realization of exports of this type of meat, especially the frozen one, in China. Serbia has committed itself to submit a completed questionnaire on the export of products of plant origin, primarily mercantile corn, dried plums and molasses. It is expected that the export of these goods will start soon ([Ministarstvo..., 2017a](#)).

In January this year, as an introduction to the memorandum on food safety, the Minister of Agriculture of the People's Republic of China and the Minister of Agriculture of the Republic of Serbia, signed a Memorandum of Understanding on Cooperation in the Field of Agriculture which envisages the arrival of investors from China in Serbia and the increased export of Serbian agricultural products to China's large market. This document is related to investments of China's large companies in the food and processing industry of fruit and vegetables, and meat processing, as well. The goal is to use the existing raw materials in Serbia and to export them with higher value. This memorandum also refers to the deployment of protocols related to Serbia's exports to China, with a view to increase exports and cooperation of scientific-research institutions ([Ministarstvo..., 2017b](#)).

1.3. *International cooperation of Serbia in agriculture at the continental (European) level*

International cooperation of Serbia in agriculture at the continental (European) level is being implemented primarily with the European Union, but recently also on an increasing scale with Russia, as well as with other European countries and organizations.

The process of accession of the Republic of Serbia to the European Union has been formally initiated by the Resolution on the Accession to the European Union, adopted by the National Assembly in 2004, given that this Act emphasizes that EU membership is a strategic commitment of Serbia. To this end, the harmonization of regulations with the EU *acquis communautaire* has started. In Article 1, point 4 of the Stabilization and Association Agreement signed by Serbia with the EU Member States in 2008, it is stated "to support Serbia's efforts to develop economic and international cooperation, among other things, through the harmonization of its legislation with the Community legislation". Namely, it is one of the main objectives of this agreement, i.e. preparation for accession to the European Union. In this regard, the National Program for the Adoption of the Acquis of the European Union was adopted in 2013 and renewed in 2014 and 2016. According to the National Program, the entire area of the *acquis communautaire* is divided into 33 negotiating chapters, including Agriculture and Rural Development (Chapter 11) and Food Safety and Veterinary and Phytosanitary Policy (Chapter 12). Within Chapter 11, in addition to agriculture and rural development, issues related to the organization of the agricultural market, quality policy, and organic agriculture have been addressed, while chapter 12 presents food safety and veterinary

policy, plant health, seed and planting material, as well as plant protection products, residues and genetically modified organisms.

Also, at the European level, Serbia concluded the Free Trade Agreement with the Russian Federation, as well as the agreement on agricultural cooperation and agreements on veterinary and plant protection. Furthermore, Serbia has concluded bilateral free trade agreements (including agricultural products) with the EFTA, Belarus, Turkey and Kazakhstan, as well as the agreement with Ukraine in the field of plant protection.

1.3.1. Stabilization and Association Agreement with the EU

By concluding the Stabilization and Association Agreement ([Zakon o potvrđivanju..., 2008, 2014](#)) in the process of accession of the Republic of Serbia to the European Union, among other things, a free trade zone between Serbia and the Union (i.e. the member countries of the Union) is gradually created. In this regard, agricultural products are given special significance, since agriculture is regulated by a separate chapter under this agreement. By the agreement, the European Union has committed itself to abolish all quantitative restrictions and measures, as well as all customs duties and charges which have the same effect on the imports of agricultural products originating from Serbia. This rule does not apply to beef products, for which the reduction in the customs duty is 20 percent, for an annual quota of 8,700 tonnes, or for sugar for which duty-free imports only apply up to an annual quota of 180,000 tonnes. On the other hand, Serbia has committed itself to abolish customs duties on imports of certain agricultural products originating in the Union, to progressively abolish customs duties on imports of certain agricultural products (in accordance with the dynamics indicated for each product in the Annex) and to reduce the import customs duties of certain agricultural products (in accordance with the dynamics given for each product in the annexes). In addition to the above-mentioned provisions, which are solely applicable to agricultural products, general provisions also apply to this product group for all types of goods, such as provisions on rest periods, dumping, safeguard clauses, rules of origin, etc.

1.3.2. Free Trade Agreement with the Russian Federation

This agreement ([Zakon o potvrđivanju..., 2001](#)) was concluded with the purpose of expanding and encouraging mutual trade-economic relations aimed at accelerating the economic development of the two parties. It is also aimed at the harmonization of customs procedures and the manner of application of the rules of origin of goods that correspond to the norms of international practice and the harmonization of the procedure for controlling the origin of goods by the customs authorities of both parties. Within a period of five years from the date of entry into force of this Agreement, the parties undertook to endeavour, to take concrete measures for the gradual abolition of the import duties and other equivalent measures of foreign trade for goods originating in the customs territories of the contracting, including agricultural product. In doing so, it has been agreed that the contracting parties will harmonize the exemptions from the regime each year, which will be applied based on bilateral protocols. It has been agreed that the contracting parties will cooperate and exchange information in the field of standardization, metrology and conformity assessment to prevent technical barriers to trade between them. The parties have committed themselves and will apply the normative acts of their countries in the field of veterinary medicine, quarantine and plant protection, especially in the part within the jurisdiction of relevant international institutions that provide information on the spread of infectious diseases in domestic animals and quarantine diseases, pests and weeds in plants and on the occasion of harmonization of the necessary documents for mutual deliveries and transit of goods, as well as mutual agreements in these areas.

1.4. International cooperation of Serbia in agriculture at the regional level

At the regional level, within the framework of international cooperation Serbia concluded a free trade agreement (including trade in agricultural products) with the CEFTA parties, as well as several agreements in the fields of veterinary medicine and plant protection.

1.4.1. CEFTA

With this agreement ([Zakon o potvrđivanju..., 2007](#)), the Republic of Albania, Bosnia and Herzegovina, the Republic of Moldova, the Republic of Montenegro, the Republic of Serbia and UNMIK on behalf of Kosovo, in accordance with United Nations Security Council Resolution 1244, joined the Free Trade Agreement in Central Europe in 2006. The Parties undertook to establish a free trade zone in accordance with the provisions of this Agreement and in accordance with the

relevant WTO rules and procedures. Principally, the objectives of this agreement are as follows: consolidation within the framework of a single agreement of the existing level of trade liberalization achieved through the network of bilateral free trade agreements previously concluded between the parties; improving conditions for further investment promotion including direct foreign investment; expanding trade in goods and services and fostering investment through fair, clear, stable and predictable rules; removing obstacles and irregularities in trade and facilitating the movement of goods and services between the territories of the parties to this agreement; ensuring equal conditions of competition affecting foreign trade and investment and the gradual opening of the public procurement market of the parties to this agreement; etc.

In the separate chapter on agricultural products, it is stated that the parties will abolish all customs duties on import of goods, all measures of the same effect, and all import duties of a fiscal nature in trade on the date of commencement of this agreement, for all products except those subject to bilateral concessions within the list in Annex 2 of this Agreement. For this smaller group of products, all customs duties on imports, as well as all measures of the same effect and all import duties of a fiscal nature in trade between the parties have been gradually reduced.

1.4.2. Regional bilateral international agreements in the fields of veterinary medicine and plant protection

The subject of bilateral agreements in the field of veterinary medicine and animal health in the region of South East Europe is cooperation aimed at controlling, eradicating and improving the system of monitoring of infectious diseases of land and aquatic animals, as well as facilitating the trade of goods designated in the World Health Organization for the protection of animal health. The agreements in general stipulates that the contracting parties will instruct their competent veterinary authorities to jointly develop and sign a protocol regulating the professional and technical conditions for the implementation of this agreement, as well as cooperation in the field of veterinary medicine.

In the field of plant protection, according to the usual model which contains minimal corrections in each bilateral agreement in this area, the basic issues in the field of plant protection (and plant quarantine) are: the lists of quarantine harmful organisms, plant quarantine, use of phyto-certificates, introduction of emergency measures, mutual notification, establishment of a joint body that will meet regularly and resolve disputable issues, etc. In terms of the list of harmful organisms, the parties agree to take appropriate measures within the scope of their competence to prevent the occurrence, introduction and spread of plant diseases, plant pests and weeds or harmful organisms included in the national lists of quarantine harmful organisms for each of the countries, which are cited in the annex to the agreement. In addition, these lists may be amended or supplemented, which shall be notified to the contracting parties within 60 days from the date of their entry into force or 30 days from the notification.

4. Results

The lack of global international standards is evident in the field of organic food. Namely, at a global level, international regulations (conventions) on the production and marketing of organic agricultural products should be adopted in the future to harmonize existing different national standards in this field. In this way, international trade in organic food would be facilitated, which would increase the production of this type of products and, therefore, a healthier nutrition in the world.

5. Conclusion

International cooperation in agriculture is a very important segment of international economic cooperation for the Republic of Serbia and it is being implemented at a global, European and regional level. The legal framework of this segment of international economic cooperation of Serbia consists of international multilateral agreements, i.e. conventions, bilateral agreements, as well as international recommendations and standards of international organizations in the field of agriculture. In addition, the legal basis includes also the regulations that require harmonization in the process of international integration. At the global level, the most important international instruments in the field of agriculture are FAO standards (*Codex Alimentarius*), as well as rules of the World Trade Organization (SPS Agreement) and food hygiene standards (HACCP). Besides this, at the global level, the legal framework includes bilateral agreements in the field of

agriculture, including the agreement with India, as well as preparatory acts for cooperation in this area with China. At the continental or European level, the most important international legal instruments are the Stabilization and Association Agreement, with the EU, as well as the EU sectoral regulations for harmonisation of national legislation with *acquis communitarian*. Also, recent cooperation with Russia based on the Free Trade Agreement, which includes agricultural products, has become increasingly important. In addition to this Serbia has concluded free trade agreements with some other European countries (EFTA, Belarus, Turkey, and Kazakhstan). At the regional level, Serbia has been achieving the most significant international cooperation in the field of agriculture with the CEFTA member countries, as well as the regional countries based on a series of bilateral agreements in the fields of veterinary medicine and plant protection.

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