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**DOES RUNNING A FAMILY FARM BY AN INDIVIDUAL  
FARMER ON THE BASIS OF THE PROVISIONS  
OF THE ACT OF 11 APRIL 2003 ON SHAPING  
THE AGRICULTURAL SYSTEM CONSTITUTE  
MANAGEMENT WITHIN THE MEANING OF  
MANAGEMENT SCIENCE?**

**Abstract**

The purpose of the article is to determine whether running a family farm within the meaning of the provisions of the Act on shaping the agricultural system has the characteristics of an ordinance within the meaning of the science of ordinance. In addition, by characterizing the term “running a family farm”, the purpose is also to illustrate its distinguishing features, taking into account the specific subject of management – a family farm, specific features of the managing entity – an individual farmer and the unique impact of the external environment (specific legal provisions) on the manager’s decision-making process.

The article is an attempt to apply the concept of management as it is understood in the science of ordinance in agricultural law, and this is to a specific type of property – a family farm. The dogmatic-legal and theoretical-legal methods were used. The study consists of the following parts: introduction; analysis of the concept of management and characteristics of the manager, analysis of the concept of running a family farm and the

characteristics of the entity running the family farm and the impact of the environment on the farmer's decisions; summaries where conclusions were formulated.

Findings: running a family farm is a special type of management in the understanding of management sciences.

In the legal literature, so far no attempt has been made to implement the concept of ordinance into agricultural law and the characteristics of this type of management. Taking into account the current literature reports, the author wishes to enrich the existing scientific achievements on the ordinance and to signal her contribution to the development of the discipline of management sciences and law.

## KEYWORDS

management, act on shaping the agricultural system, family farm, running a family farm, individual farmer, environment

## SŁOWA KLUCZOWE

zarządzanie, ustawa o kształtowaniu ustroju rolnego, gospodarstwo rodzinne, prowadzenie gospodarstwa rodzinnego, rolnik indywidualny, otoczenie

## 1. INTRODUCTION

There is no uniform term for 'management' [*zarządzanie* in Polish] in management science. However, by 'management' we typically mean a set of activities focused on an organisation and encompassing planning, decision-making, organising, and leading which are aligned with the goals of that organisation.

The language of the Agricultural System Structuring Act of 11 April 2003<sup>1</sup> does not employ the term *zarządzanie* (which is 'managing' or 'management' in English); instead, it uses the phrase *prowadzenie gospodarstwa rodzinnego* ('running a family farm'). That leads to a dilemma – can the term 'management' be used in agricultural law and can we talk about the 'management' of an agricultural holding (*zarządzanie gospodarstwem rolnym* in Polish)?

The purpose of this paper is to determine whether or not 'running' a family farm has the features of 'management' within the meaning of management science. The next purpose is to characterise the actions undertaken by the person running a family farm in order to present their special features. All that is to clar-

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<sup>1</sup> Consolidated text in Journal of Laws.

ify the special features of a property/organisation such as an agricultural holding (a family farm).

## 2. THE TERM 'MANAGEMENT'

There are many definitions of 'management' in management science. According to R.W.Griffin, management is a set of activities, including: planning and decision-making, organizing, leading (i.e. leading people), and controlling directed at an organization's resources (human, financial, physical, and information) with the aim of achieving organizational goals in an efficient and effective manner.<sup>2</sup> According to another view, management is about ensuring (creating in a deliberate manner) conditions for an organisation to operate as assumed, that is for the organisation to pursue its mission, achieve its goals as part of the mission and maintain the necessary level of consistency that allows it to survive, that is to stand out from the surroundings, and to develop, or pursue its mission and goals in the future.<sup>3</sup> Therefore, management is an action aimed at causing the functioning of things, organisations or reports, in accordance with the goals of the manager.<sup>4</sup> In any case, management is a professional leadership activity that takes place in an organisation (an institution), regardless of its legal form, size, spatial structure or type of activity, that has a common goal or common goals, and the organisation being managed has the necessary human, material and immaterial resources which are used for the achievement of its goals.<sup>5</sup>

Management is a deliberate, informed, and systematised process. It should start with the identification of problems and setting goals, followed by planning the methods for their achievement, organising, decision-making, communicating, leading and motivating people, as well as control.<sup>6</sup>

There is no definition of 'management' in legal provisions. In legal literature, 'management' is understood as repeated activities performed by a management entity by way of making decisions concerning the activities of the subordinate management entities.<sup>7</sup> The term 'management' in law is typically connected with the management of real estate (assets, resources).

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<sup>2</sup> R.W. Griffin, *Podstawy zarządzania organizacjami*, Warszawa 2005, p. 6.

<sup>3</sup> Cz. Sikorski, *Nauka o zarządzaniu*, Łódź 2009, p. 22.

<sup>4</sup> B. Gliński, *Mala encyklopedia ekonomiczna*, Warszawa 1974, p. 929.

<sup>5</sup> S. Sudol, *Nauki o zarządzaniu. Pojęcie zarządzania, zakres i granice nauk o zarządzaniu, ich miejsce w klasyfikacji nauk oraz subdyscypliny*, Warszawa 2012, pp. 100-101.

<sup>6</sup> M. Kowalska, *Ewolucja teorii zarządzania*, "Wiedza Obronna" 2019, Vol. 266-267, No. 1-2, p. 176.

<sup>7</sup> E. Bończyk-Kucharczyk, (in:) B. Baran (ed.), *Nieruchomości. Zagadnienia prawne i zarząd*, Warszawa 2013, p. 662.

Management of real estate is the right of the owner (co-owner) and the duty arising from Article 200 of the Polish Civil Code. The owner may choose to manage it on its own or to entrust the management to a professional manager (administrator). In view of the multitude of owners in situations envisaged under special provisions, there may appear competent bodies that will perform the acts of management.

Article 185(1) of the Real Estate Administration Act of 21 August 1997<sup>8</sup> refers to taking actions and making decisions as manifestations of management.

### 3. FEATURES OF THE MANAGING ENTITY

When looking at ‘management’ from the entity perspective, we will answer the question of who manages [an organisation] and what are the features of the manager. That is because management is a deliberate, informed, and systematised process run by people who have been granted adequate decision-taking authorities and scopes of responsibilities.<sup>9</sup> By fulfilling leadership functions, the body managing an organisation (a manager) has an impact on its functioning and development.<sup>10</sup> A management body is an entity that is equipped with managerial competencies. Managerial competencies are special qualities that a management body should have. In other words, the activities undertaken by a manager should be efficient and effective. Efficiency means doing things in the right way or performing tasks in the correct and smart way without unnecessary waste (minimum use of resources that allows the organisation to achieve its goals). Effectiveness means doing the right things or performing the right tasks that lead one to achieve well-set goals (acting successfully). Good management is about being efficient and effective at the same time. ‘Organisational effectiveness’ is defined as the organisation’s ability to adapt to changes taking place in the environment, in an ongoing and strategic manner, and to use its resources in a productive and economical manner to achieve the adopted structure of goals.<sup>11</sup>

The ability to shape, in a conscious and rational manner, the dependence between the elements of the organisational system, the system itself and its environment which is understood as a complex system of multiple trends, events and

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<sup>8</sup> Consolidated text in the Journal of Laws of 2023, items 344, 1113, 1463.

<sup>9</sup> M. Kowalska, *Ewolucja teorii zarządzania*, “Wiedza Obronna” 2019, Vol. 266-267, No. 1-2, p. 176.

<sup>10</sup> S. Sudol, *Nauki o zarządzaniu. Pojęcie zarządzania, zakres i granice nauk o zarządzaniu, ich miejsce w klasyfikacji nauk oraz subdyscypliny*, Warszawa 2012, pp. 100-101.

<sup>11</sup> J. Penc, *Leksykon biznesu*, Warszawa 1997, p. 100.

markets that create the context of the organisation's operations is an important feature of manager's activity.

#### 4. RUNNING A FAMILY FARM

An agricultural holding is a special type of property. It is treated as an enterprise type both in literature and case law. Both property and enterprises (organisations) are managed. The term 'management' (*zarządzanie*) is not used in the provisions of the Agricultural System Structuring Act; instead, the Act uses the phrase *prowadzenie gospodarstwa rodzinnego*, or running a family farm (as a special type of an agricultural holding). Does 'running' a family farm mean 'managing' a family farm?

According to a dictionary of Polish language, *prowadzenie* is a noun derived from the verb *prowadzić*. *Prowadzić* in general terms means to "lead someone to a place/a destination", to result in something. Another meaning of the verb *prowadzić* is to "run something", "supervise something" or "manage something".<sup>12</sup>

Given the linguistic interpretation of the phrase *prowadzenie gospodarstwa rolnego* (running an agricultural holding) and the above-cited definitions of 'management', one needs to conclude that *prowadzenie gospodarstwa rodzinnego* (running a family farm) is managing it, that is leading it, making decisions concerning it and supervising it while taking into consideration specified goals.

Further on, according to the dictionary of Polish language, the term *prowadzić* together with a noun as an object means "to conduct" or "to pursue" the thing that is expressed by the object. This is an argument supporting the thesis that *prowadzenie gospodarstwa rodzinnego* (running a family farm) is actually managing it. It seems necessary to turn our attention to the management object, that is to a family farm.

The conviction that a family farm is the basic production unit in the European agriculture model is and has always been at the core of the basic assumptions behind the Common Agricultural Policy. As regards Polish regulations, Article 23 of the Constitution of the Republic of Poland reads that the family farm shall be the basis of the agricultural system of the Polish State.

A 'family farm' is understood as an agricultural holding or an organised set of assets for agricultural activity, which is run by a natural person on his/her own or together with his/her family members, and which is the basis for their livelihood.

The Agricultural System Structuring Act provides its own definition of a family farm in Article 5(1). According to that article, a family farm is an agricultural holding:

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<sup>12</sup> M. Szymczak (ed.), *Słownik języka polskiego. Tom trzeci R-Ż*, Warszawa 1981, pp. 944-945.

- 1) that is run by an individual farmer, and
- 2) where the total utilised agricultural area is not greater than 300 hectares.

An agricultural holding is comprised by agricultural land together with forest lands, buildings or parts of buildings, equipment, and livestock if they are, or may be, an organised single economic unit, together with the rights related to the running of an agricultural holding (Article 55<sup>3</sup> of the Polish Civil Code).

## 5. PROPERTIES (ATTRIBUTES) OF A FAMILY FARM MANAGER

In the case of managing a family farm, the manager must fulfil other criteria imposed by the regulations, in addition to having general managerial competencies. A family farm shall be run by an individual farmer (Article 5 of the Agricultural System Structuring Act).

In accordance with Article 6(1) of the Agricultural System Structuring Act, an individual farmer is a natural person who is the owner, holder of the perpetual usufruct right (*użytkownik wieczysty* in Polish), owner-like possessor (*samoistny posiadacz* in Polish) or a leaseholder (*dzierżawca* in Polish) of agricultural properties with the total utilised agricultural area of under 300 hectares who has agricultural qualifications and who has resided for five years in the commune in which one of the agricultural properties which make up the agricultural holding is located, and who has run that agricultural holding in person during that time.

Therefore, a family farm may only be managed by a natural person or by natural persons who run the agricultural activity as part of an agricultural holding together (spouses, partners in a civil law partnership). Consequently, a family farm may not be run by an organisational unit, a business entity, a commercial partnership, the State Treasury, the National Support Centre for Agriculture (KOWR), the National Property Stock (KZN) or local government units. It is assumed that a natural person runs an agricultural holding in person if:

- a) s/he works in that agricultural holding,
- b) s/he makes all the decisions concerning running agricultural activity on that farm (Article 6(2)(1)).

Running an agricultural holding in person means that “a natural person works on that farm and makes all decisions concerning the agricultural activity run on that farm” (the Supreme Court Ruling of 20 September 2018, IV CSK 455/17, LEX No. 2577319). The fact that a farm is run by a farmer in person should be evident [...] in that all the decisions concerning the farm functioning are made by the farmer who concludes contracts with suppliers, off-takers, banks, insurers, and who also himself/herself works on that farm. What is more, the farmer should be directly and constantly involved in the activities that are

part of the production activity pursued as part of that agricultural holding and management of that farm.

Introducing the requirement of running an agricultural holding by the manager in person is to eliminate a situation where agricultural land is purchased by people whose personal and professional lives are outside agriculture, and who consider purchase of land to be an investment. Therefore, it is about ensuring that agricultural land remains in the hands of people who are real farmers and who see their future in running a family farm.

Working on a family farm is another feature of the person managing a family farm, that is performing, directly, in person and on a regular basis, activities that are functionally related to the production operations in the agricultural holding, such as ploughing, sowing, harvesting, feeding animals or operating agricultural machinery. The farmer should have all decision-taking powers in regard to decisions concerning the manner and the direction of operations on the family farm. Those powers may not be transferred onto any other person (be it under a contract or by way of an informal arrangement). A leaseholder of agricultural property (*dzierżawca nieruchomości rolnych* in Polish) may become an individual farmer (Article 693ff of the Polish Civil Code). By contrast, the conditions outlined in Article 6(1) of the Agricultural System Structuring Act are not fulfilled if the owner has leased the entire farm, or nearly all agricultural properties that are a part of that farm, to another person. This applies, as appropriate, to other cases where the farm or the properties are given in dependent possession (*posiadanie zależne*). “The mere possession or ownership of an agricultural holding may not be classified as running that agricultural holding unless it involves pursuing an agricultural activity which also includes making decisions concerning the agricultural activity pursued on that farm” (the Provincial Administrative Court in Poznań ruling of 24 April 2014, II SA/Po 93/14, LEX No. 1500398). However, the farmer may employ other people on the farm under any legal basis of employment and for any period.<sup>13</sup> The person running a farm may also give powers of attorney to other individuals who will represent him/her when taking legal acts relating to the running of the agricultural holding; however, granting such power of attorney must not lead to delegating all decision-taking powers onto such individuals (particularly of key nature for the farm).

Article 6(1) of the Agricultural System Structuring Act provides for a separate criterion, notably an individual farmer must have agricultural qualifications; that criterion is meant to link the individual qualities of a natural person with the agricultural activity by requiring that the person is educated in agriculture or has worked in agriculture for a specific number of years.

In addition to other special qualities of a person managing a family farm, the legislator also requires that an individual farmer should reside for at least five

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<sup>13</sup> T. Czech, *Kształtowanie ustroju rolnego. Komentarz*, Warszawa 2022, pp. 399-400.

years in the commune in which one of the agricultural properties that make up his/her agricultural holding is located. The domicile criteria were introduced to prevent a situation where individuals would evade the provisions of the Agricultural System Structuring Act and, for example, purchase agricultural properties for investment purchases.

## 6. IMPACT OF THE EXTERNAL ENVIRONMENT

In the case of an individual farmer who runs a family farm, the external environment has a special impact on the decisions made as part of management. The agricultural business is surrounded, in particular, by formal institutions, that is legal acts and regulations, and institutions that are organisations, or authorities of all types and at all levels.<sup>14</sup>

In the case of family farm management, formal institutions include, in particular, the preamble and the goals set (Article 1 of the Agricultural System Structuring Act) to define the strategies followed by the State to influence the agricultural business in that area, notably:

- improving the protection and development of family farms,
- ensuring adequate management of agricultural land in the Republic of Poland,
- concern for ensuring food security of the citizens,
- supporting sustainable agriculture pursued in accordance with the environment protection requirements and contributing to the development of rural areas,
- improving the structure of agricultural holdings in terms of their area,
- combating excessive concentration of agricultural properties,
- ensuring that agricultural activity in agricultural holdings is pursued by individuals who have the relevant qualifications,
- supporting the development of rural areas,
- implementing and employing instruments for agriculture support, and
- an active agricultural policy of the State.

Apart from the issues of any economic patriotism which is understood as any actions that support the national economy by the state institutions, public administration or local government units, but also by entrepreneurs' organisation or even individual companies, one should also keep in mind that there are specific legal instruments that prompt individual farmers to make specific decisions and that are subordinated to the achievement of the above goals. Those include:

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<sup>14</sup> I. Nurzyńska, *Rola instytucji w procesie promowania i rozwoju przedsiębiorczości na terenach wiejskich*, "Wieś i rolnictwo" 2011, No. 31, p. 112.

- special principles of purchasing agricultural properties,<sup>15</sup>
- the duties of an agricultural property buyer,<sup>16</sup>
- special principles of disposing of agricultural properties (shares and participations).<sup>17</sup>

## 7. CONCLUSION

The fact that the legislator did not explicitly use the term ‘management’ in regard to a family farm in the Agricultural System Structuring Act does not mean that ‘running’ a family farm is not ‘management’. The analysis performed herein leads to a clear conclusion that running a family farm, as referred to in the Agricultural System Structuring Act, is ‘management’ within the meaning of management science. There are several arguments supporting that thesis. The term ‘management’ in management science is most frequently understood as acting in such a way as to cause an organisation’s functioning in line with the goals of the manager. Given the linguistic interpretation of that phrase, *prowadzenie gospodarstwa rodzinnego*, or ‘running a family farm’, is about leading a farm and making decisions that concern it.

At the same time, managing a family farm is a special type of management. It is special due to the very object of management, that is the family farm which, as was demonstrated herein, is a unique type of property, a unique type of an agricultural holding. Next, managing a family farm is special due to the specific qualities of the managing entity, that is an individual farmer. Finally, managing (or, running) a family farm is certainly unique due to the exceptionally high impact

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<sup>15</sup> Only an individual farmer may acquire an agricultural property, unless the Act states otherwise. The area of the agricultural property to be purchased and the area of the agricultural properties that make up the family farm of the purchaser may not be larger than 300 hectares of utilised agricultural area (Article 2a(1) of the Agricultural System Structuring Act).

<sup>16</sup> An agricultural property buyer is required to run an agricultural holding that comprises the newly acquired agricultural property for at least 5 years from the date of purchasing that property, and where the agricultural property is bought by a natural person, the person needs to run that agricultural holding in person. During the period, referred to in section 1, the property acquired may not be disposed of or given into possession of other entities (Article 2b).

<sup>17</sup> Where an agricultural property is sold, the leaseholder and KOWR have the pre-emptive right (Article 3), and where an agricultural property is purchased as a result of 1) entering into a contract other than a sales contract or 2) a unilateral legal act or 3) a decision of a court of law, a public administration body or a decision of a court of law or an enforcement authority pursuant to provisions on enforcement proceedings or 4) any other legal act or any other legal event, the National Centre acting for the State Treasury may make a statement regarding the acquisition of that property against the payment of the price for that property (Article 4).

of the external environment (legal regulations, particularly those contained in the Agricultural System Structuring Act) on the manager's decision-making process.

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