

OWNERSHIP SUCCESSION PLANNING. STUDY OF AGRICULTURAL FARMS IN SILESIA VOIVODESHIP

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Abstract: The problem of succession has been more and more frequent in investigations concerning the future of agricultural farms in Poland. The reducing number of inhabitants, ageing society and a declining number of new births are only some of the factors which highlight this problem. The focus of the study was on the agricultural farms in the case of accidental events such as death or serious illness that makes it impossible for the owner to make representations and sign on behalf of the business solely. These problems are critical from the standpoint of ensuring the continuous operation of the farm. The study was carried out with using a questionnaire and analysis of the independence of the Chi-square test (χ^2). Most of the farmers studied think about what would happen in the case of their permanent loss of ability to manage the farm, and especially in the case of their sudden death. The opportunities for presence of other negative events such as serious illnesses seem to be neglected by those who manage agricultural farms. This is likely to be due to the psychological reluctance to think and prepare for such difficult scenarios. The study also demonstrated the lack of correlation between the size of agricultural farm and securing farmers against the accidental events. A moderate relationship was observed only at the level of general planning of the future of the agricultural farm. One of the popular forms among the owners of agricultural farms was establishment of a kind of *mortis causa* plenipotentiary.

Keywords: agricultural farm, succession, management, accidental event, plenipotentiary.

1. Introduction

The popularity of business conducted individually by a private individual forces the necessity of undertaking succession problems. The death of an entrepreneur who runs a sole proprietorship may provide not only the psychological drama of the family and relatives, but may also bring serious consequences to them as potential heirs. This problem applies especially to agricultural holdings, in the case of which the occurrence of an incidental event does not allow for uninterrupted continuation of operations. The gap identified in this area could fill the

establishment of the temporary representative's institution (so-called "proxy mortis causa"), who could manage the company for some time as the previous entrepreneur did. The purpose of the study is evaluation of the situation of the agricultural farms in the case of the accidental events (e.g. death or sudden illness that makes it impossible to the owner to run the agricultural business) and the related legal and economic consequences to the farm.

The agricultural activities understood as business activities was also mentioned in the Act of 30 March 2001 on agricultural market surveys (Journal of Laws, 2015). The definition of the agricultural entrepreneur is also contained in this document, considered as an entrepreneur defined in the Act of 19 November 1999: the Law on Business Activities (Journal of Laws, 1999) and the natural or legal persons who conduct the agricultural production activities in terms of agricultural farming and animal farming, horticulture, market gardening, forestry and inland fishing¹.

However, it seems legitimate to state that the agricultural farm is a form of agricultural business activity (Goraj, 2005). Agricultural activities are characterized by a specific nature, which is manifested by, first and foremost, casual maintaining the households, with its main goal being to provide the household members with resources needed for their everyday existence. In order to achieve this aim, it is necessary to be involved in agricultural activity in the farm that is economically efficient, which is required in any other type of business activities. With respect to the economic efficiency of the agricultural activities, the farmers should take into account such elements as planning of activities, using and adjustment to the market rules, using the principles of marketing and control of the effects of activities while using at least basic principles of economic calculation. Market success in agricultural activity often depends on ecological awareness of farmers and the scope of ecological initiatives they take (Jelonek, and Seroka-Stolka, 2013).

This comparison of the most important characteristics of the general business activities in the specific agricultural activities within the agricultural farm that produces goods for the market indicates that agricultural farms in their most common form can be regarded as an enterprise, and some of their aspects can be analysed by analogy to non-agricultural enterprises (Corsi, 2004).

Today, development of SMEs is an appropriate strategy for development of agricultural section, paving the way for overcoming challenges such as stability, benefit, and efficiency. The Corporate Entrepreneurship (CE) of firms and enterprises is the subject of current research in the fields of management and business. However, analyses on this subject in agricultural firms are lacking (Ahmadpour Daryani, and Karimi, 2017).

One of the most important problem faced by people who run agricultural farms is the problem of further existence of the farm in the case of agricultural activity becoming difficult or impossible for the owner (Blanc, and Perrier-Cornet, 1993). The process of gradual transfer

¹ Art. 2, Section 3 of the Act of 30 March 2001 on agricultural market survey (i.e. Journal of Laws 2015, Pos. 1160).

of the managerial functions and property of the farm to the successor is termed agricultural farm succession (Dudek, 2009). Farm succession, which is of interdisciplinary character, has a critical effect on a number of aspects of management in the agriculture, country, local and public finances, health care and social assistance. The problem also affects new unexplained areas, such as "succession ladder" i.e. stages and order of succession of the managerial authority (Klank, 2006).

The principal problems concerning the problems of succession (Dudek, 2009):

- maintaining and development of the economic value of the agricultural farm,
- ensuring the stability of rural family.

The problem of succession concerns many developed countries of the EU. Therefore the EU's commitment to these problems is noticeable. The European Union is trying to stop a reduction in the number of farm takeovers or the transfer of farms to successors. On the one hand, this involves support for young farmers to take over farms, carried out in the form of one-time, non-repayable financial assistance for an easier takeover and a structural adaptation of the farm after takeover; on the other hand, this involves the support for the early retirement of farmers, which is carried out in the form of annual annuities to elderly farmers that stop engaging in the profit-oriented agricultural and forestry activities on the farm as a result of transferring the farm to a successor (Kerbler, 2012).

According to the researchers who have dealt with the problems of succession of agricultural farms, most of them are transferred within the family (Łukasik, 2013). This position of those who transfer agricultural farms seems to be justified. The succession, especially the one occurring when the previous owner is alive, can be adequately prepared to meet the adopted goals (Fennell, 1981). It is often emphasized in the literature that succession of the family enterprise such as agricultural farms is a long and complex process which involves the choice of the successor, evaluation of his or her competencies, abilities and knowledge and opportunities for development of these characteristics with the course of time and the willingness to take over the family business by the successors (Kempa, 2015).

Planning the succession should take into consideration the fact that if the succession is performed improperly, the family business may go bankrupt (Mann, 2007). The most frequent causes of the short life of family businesses include (Lewandowska, et al., 2012):

- poor planning of succession and the resulting inability to pay the inheritance tax by the successor,
- failure to transfer the business to the successor at a right moment,
- inability to choose the successor (in the case of several potential candidates),
- no interest of the potential successor in family business or a conflict between the candidates and inability to reach an agreement.

The often observed problem is late starting the succession process which leads to several-times higher risk of bankruptcy or losing its family character. This results from the internal reluctance of the previous owner to transfer the company to the other person but it can also result from the lack of knowledge or dealing with other problems occurring in current enterprise activity (Czekaj, 2016). Here, we touch the important problem of knowledge transfer to agriculture (Ataei, and Zamani, 2015), not only related to the subject of activity but also to the legal issues of the functioning of agricultural enterprises. The effects of business succession, including the agricultural farms as indicated above, significantly depend on who will take over the managerial function (Stiglbauer, et al., 2004) connected with decisions on the property, directions of development and production.

From this standpoint, it is more beneficial to transfer the business when the owner is still alive rather than start the succession procedures, which are often connected with conflicts and do not guarantee the solutions which are the best for functioning of the farm and reaching the assumed goals (Miller, et al., 2003).

2. Succession following the accidental events – literature overview

Although the literature has broadly discussed the problems of the succession problems in agricultural farms, the significant gap is the problem of overtaking of the agricultural business in the case of sudden events that prevent the manager of the farm from performing the managerial functions. The accidental events are understood to mean a sudden death of the owner or the illness that makes it impossible for them to make representations and sign on behalf of the business solely.

Current institutional solutions do not contain global procedures that allow for maintaining the continuity of agricultural farm activity until the farm is taken over by the successor. These problems are also not regulated by the Common Agricultural Policy (Offutt, 2003).

The major problems can be generated due to:

- continuation of long-term contracts, such as leasing agreements, contract of supplies of agricultural products, loans,
- settlements of direct subsidies paid by the Agency for Restructuring and Modernization of Agriculture,
- settlement of public receivables, e.g. tax, value-added tax, etc.,
- continuation of labour relations for the employees employed in the farm,
- repayment of current payments, with particular focus on those using the banking account of the farm.

Therefore, it can be found that the legal environment of the agricultural farm should be developed so that it has legal instruments available to allow for ensuring economic security of the farm for the period of succession due to the accidental event until the farm is taken over by legal successors or a nestor who recovered (after an illness, accident, etc.) (Dziadkiewicz, 2009).

The examples of institutional solutions that protect the continuity of agricultural farm operations include:

- *mortis causa* plenipotentiary i.e. the person who, based on the proxy to temporarily manage agricultural farm and run it until it is transferred to the successor,
- temporary manager appointed by the court with powers similar to the plenipotentiary.

Both *mortis causa* plenipotentiary and temporary manager would be able to use the nestor's business, would have rights to repay public and private receivables from the funds deposited on the deceased owner's account but only if due to the uncompleted inheritance procedures, there is lack of the people who are obliged to repay them.

It also seems justifiable that allowing the plenipotentiary to conclude, execute and dissolve the contracts, including the contracts concluded before the death of the farm owner, and represent the successor in administrative procedure and court and administration procedures.

The function of the *mortis causa* plenipotentiary would, similar to the family businesses, result in non-expiration of the administrative decisions issued with respect to the deceased owner of the agricultural farm (in addition to the decisions relating to their close personal attributes) and opportunities of exercising them by the plenipotentiary and then by the successors.

Furthermore, the plenipotentiary would act as an employer through continuation of the current labour relations. This would lead to removing the consequences of the expiry of labour relations as a result of the death of the employer and the necessity of repayment of compensations due to the periods of notice in the employment contracts.

3. The own conduction of research

The study was conducted among 56 agricultural farms (with surface area of over 5ha) in the area of the Silesian Voivodeship in February and March 2017. The research aim was evaluation of the situation of the agricultural farms in the case of the accidental events (e.g. death or sudden illness that makes it impossible to the owner to run the agricultural business) and the related legal and economic consequences to the farm. A detailed analysis was perform to evaluate the relationships between the size of the agricultural farm and the distinguished four variables defining the character and the need for succession in the case of incidental events.

To the study were selected farms of more than 5 hectares. The examination was conducted using the survey questionnaire composed of two parts. The first part was comprised of 8 questions aimed at characterization of the study group. The second part contained 10 questions concerning the problems of succession in case of an accidental event.

The chi-squared test for independence (χ^2) was used to examine the independence of X and Y characteristics, which in this case are of non-measurable (qualitative character, with the significance coefficient set at $\alpha = 0.05$).

$$\chi^2 = \sum_{i=1}^k \sum_{j=1}^r \frac{(n_{ij} - \hat{n}_{ij})^2}{\hat{n}_{ij}} \quad (1)$$

where:

n_{ij} – the observed frequency for the group,

\hat{n}_{ij} – is expected frequency for the group,

k – number of column of the independence table,

r – number of the table of independence.

The above method allows for verification of the zero hypothesis (H_0), according to which the variables are independent, and the alternative hypothesis (H_1), which points to the presence of the relationship between the analysed characteristics. Inequality

$$\chi^2 \geq \chi_{\alpha; (r-1)(k-1)}^2 \quad (2)$$

represents the basis for rejection of the zero hypothesis in favour of the alternative hypothesis.

The relationship was analysed between the two variables X and Y, where X denotes the farm size and the variable Y is, respectively:

- 1) planning of the future of the agricultural farm by the owner in case of the constant loss of abilities to manage,
- 2) choice of the successor or plenipotentiary in case of the death or illness of the owner that makes it impossible for the owner to make representations and sign on behalf of the business solely,
- 3) perceiving the need for creation of institutional solutions that allow for management of the agricultural farm for the period of the accidental event,
- 4) appointment of the *mortis causa* plenipotentiary to ensure the continuity of the farm operations who would temporarily run the farm businesses until it is taken over by the successor in the case of the owner death.

Furthermore, in the situations 1) and 2), the Yates continuity correction was used due to the value of the expected number of < 5 .

V-Cramer statistics was used to examine the strength of the relationship:

$$V = \sqrt{\frac{\chi^2}{n * \min(r-1, k-1)}} \quad (3)$$

where:

V – V-Cramer coefficient between the two variables,

χ^2 – the results of the chi-square test for pairs of variables,

n – number of observations,

k – number of columns from the independence table,

r – number of rows in the independence table,

$\min(r-1, k-1)$ – minimal value from two $(r-1)$ or $(k-1)$.

The Cramer adopts the values:

$$0 \leq V \leq 1 \quad (4)$$

When the characteristics are independent (lack of correlations), the coefficients adopts the values similar to zero. For the entirely dependent characteristics, the coefficients equals one.

4. Results and discussion

Due to the size of the agricultural farms, the most of them were those with *the surface area from 10 to 15h* (52%), followed by 34% of the farms *with the surface area from 5 to 9h* and 14% *over 15h*. The period of running the agricultural farms was for the most of indications of *over 10 years* (54%), followed by *from 5 to 10 years* (39%) and *up to 5 years* (7%). The types of business activities in the farms (three options could be chosen) indicated by the respondents were mainly *agricultural crops* (93%), followed by *animal farming* (32%) and *others* e.g. activity to support agriculture (16%). Only 16% of them *run businesses as sole traders* while nearly the same number *employed employees* in their farms. Over 55% of the farms had *long-term contracts concluded*, for example leasing and loan contracts. The substantial majority of the farms (98%) *received direct subsidies*.

Furthermore, the respondents were asked about more detailed information concerning the problems of succession in their agricultural farms. The results showed that 85% of the farm managers expect the change in terms of the property of the farm so that in case of their death the farm can continue the operations started many years ago. 13% of the respondents did not think about such events and merely 2% did not predict the change in the ownership at all (see Fig. 1).

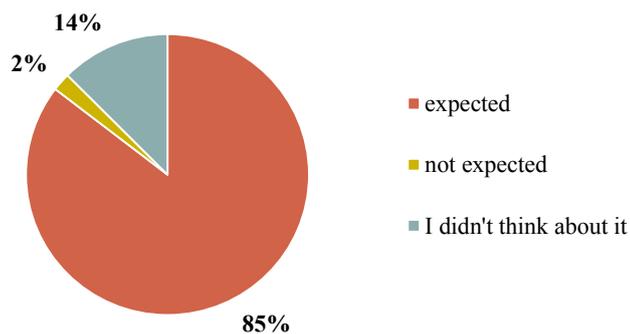


Figure 1. Planned changes in property of the agricultural farms

When asked about taking over the farm by the successors, 82% of the respondents indicated that they will do it through gift procedure or sales before the death, 16% of them chose inheriting by writing a will and 2% predicted legal succession (see Fig. 2).

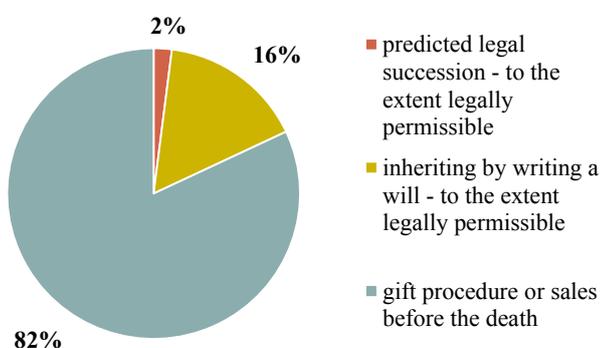


Figure 2. Predicted options of taking over the agricultural farm by successors

The worrying fact is lack of knowledge of the mechanisms of taking direct subsidies in the case of accidental events in agricultural farms, e.g. the death of the manager. 77% respondents were not familiar with the consequences connected with this situation, which can lead to serious legal and managerial problems in conducting the agricultural farm. Only 23% had a knowledge that concerned the above problem (Fig. 3).

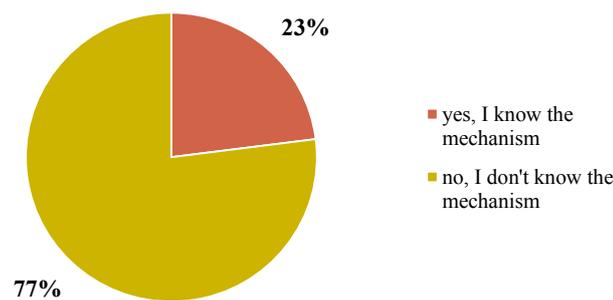


Figure 3. Knowledge of the mechanism of direct subsidies in case of accidental events

Due to the business activities run in the form of the agricultural farm and other managerial issues, it is critical to authorize the third party persons (from the farm) to manage the resources in the banking account of the farm, which allows for repayment of e.g. current receivables connected with running the business in the case of the accidental event. In 91% of the agricultural farms, this solution was taken into account.

When asked about the acceptance of establishment of the institutional opportunities for appointment of the manager for the agricultural farm by the court for the period of the accidental event, the respondents were not that unanimous. Over half of them (57%) indicated this possibility if the competencies of the manager are limited whereas 43% were unwilling to use this solution.

In order to maintain the continuity of agricultural farm operations, also in the case of the accidental event, there is an option of the appointment of the *mortis causa* plenipotentiary who would temporarily run the farm until the successor takes over the business. This opportunity would be used by slightly more than the half of the farmers (52%) whereas 29% were absolutely against this solution and 19% of them indicated the answer "I don't know", which leads to the presumption of their low level of knowledge about the function of a plenipotentiary in this transitional period (Fig. 4).

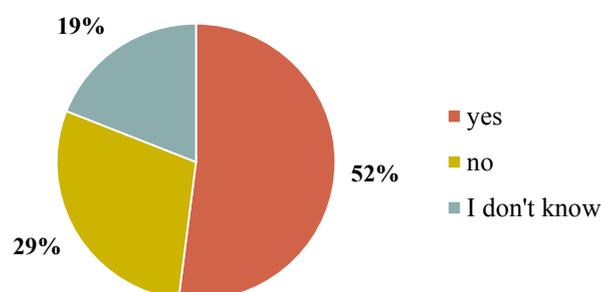


Figure 4. Appointment of the *mortis causa* plenipotentiary who would temporarily manage the farm until the successor takes over the property

It can be expected that the bigger the farm the higher responsibility of the owner and, consequently, greater foresight and necessity to secure the property. Therefore, the present study verified the presumption that the size of the farm managed by the farmer determines his or her knowledge about the farm succession, particularly in terms of securing the continuity in the farm functioning in case of the accidental event. The verification concerned the relationship between the agricultural farm size (variable X) and the following characteristics (variable Y):

- 1) planning of the future of the agricultural farm by the owner in case of the constant loss of abilities to manage,
- 2) choice of the successor or plenipotentiary in case of the death or illness of the owner that makes it impossible for the owner to make representations and sign on behalf of the business solely,
- 3) perceiving the need for creation of institutional solutions that allow for management of the agricultural farm for the period of the accidental event,
- 4) appointment of the *mortis causa* plenipotentiary to ensure the continuity of the farm operations who would temporarily run the farm businesses until it is taken over by the successor in the case of the owner death.

The test statistic computed in individual situations adopted the values:

- 1) $\chi^2 = 6.57$; $\chi^2_{0.05; 1 \times 1} = 3.8415$,
- 2) $\chi^2 = 0.43$; $\chi^2_{0.05; 1 \times 1} = 3.8415$,
- 3) $\chi^2 = 0.07$; $\chi^2_{0.05; 1 \times 1} = 3.8415$,
- 4) $\chi^2 = 2.84$; $\chi^2_{0.05; 1 \times 1} = 3.8415$.

The probability resulting from the test χ^2 in cases 2, 3 and 4 does not allow for the rejection of H_0 and leads to the conclusion that there is a relationship between the characteristics studied. Only in the case 1), the result of the test χ^2 represents the basis for rejection of the H_0 in favour of H_1 , which indicates the presence of the relationship between the variables studied. For these two variables, i.e. X – size of the agricultural farm and Y - planning of the future by the owner of the agricultural farm in case of the permanent loss of ability to manage the farm, the strength of the relationship was calculated. The value of Cramer coefficient (V) (0.3425) points to the moderate relationship between the characteristics studied.

5. Conclusions

The study showed that most farmers thought about the future of their agricultural farms in case of permanent loss of ability to manage the farm and took measures to prepare for such events. These were in particular changes in terms of ownership in the farm in order to continue the activity in the case of the death of the owner. The substantial majority of the owners planned

to indicate the successor through gift, sales or preparation of the will. Another popular method to ensure the continuity of the agricultural farm in case of death or serious illness of the owner is to authorize the third parties. Nearly half of the farmers studied saw the candidates for successors among the closest relatives, however, provided they acquire additional qualifications.

Over half of the respondents perceive the need for creation of institutional solutions that allow for management of the agricultural farm on the duration of the accidental event. However, most of them are careful about appointment of the manager for the agricultural farm by the court for the duration of the accidental event. They accepted this solution but under condition of limitation of the manager's competencies. The most popular form among the owners of agricultural farms was establishment of the institutional opportunities for appointment of a *mortis causa* plenipotentiary.

It would seem that the size of the agricultural farm determines the owner's sense of responsibility, which means that the bigger the farm the higher foresight, necessity to secure the property and the need for ensuring continuity of the agricultural farm. However, the study did not demonstrate such relationships, which means that in big agricultural farms (over 10 ha), the necessity to appoint the successor or the third party to manage the property is not much emphasized. This concerns not only the owner's death but also their serious illness that would make them unable to make representations and sign on behalf of the business solely. Only a moderate general relationship was observed, i.e. planning the future of the agricultural farm in case of the permanent loss of ability to manage the farm.

The examinations and the respondents' own observations lead to the conclusion that the people who manage agricultural farms seem not to analyse the problems of sudden negative events (such as unexpected death or serious illness that limits the ability to make representations and sign on behalf of the business solely). This is likely to be due to the psychological reluctance to think and prepare for such difficult scenarios. It was during the test that the farmers became aware that this attitude can only intensify the negative effects of accidental events through disturbing the continuity of operations in the agricultural farm that is the source of finance for the farmer's relatives.

This leads to the conclusion of the necessity of the research on succession management in agricultural farms in case of an accidental event and the necessity of the more active role of the state in creation of the institutional framework to provide efficient tools used to prevent the negative effects of such events.

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