

## DECENTRALIZED AND DELEGATED AFFAIRS OF A STATE ADMINISTRATION IN THE FIELD OF AGRICULTURE

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### Summary

*In the Republic of Serbia, the distribution of jurisdiction in the field of agriculture has a distinctive character. Jurisdiction for the affairs in the field of agriculture is disposed on different levels of government. This partition is followed by the different legal order of affairs, which non-central entities perform. The measure of the provincial jurisdiction is not closed in advance, but its parameters are determined by the republican jurisdiction to arrange a system and pursue a policy, leaving this level of jurisdiction to the province, which, depending on the current needs in the field of agriculture, will be determined as issues of provincial interest. These measures necessarily include a normative, planned, organisational, financial and administrative aspect. In regard to delegated affairs, it is mainly about the classical administrative activities of authoritative character, provided that the supervisory powers are much greater. The objective of this paper is to identify original and delegated affairs of a state administration, their content and the relation between the state administrative authorities and the administrative authorities of decentralized units in their performing.*

**Key words:** *agriculture, provincial administration, local authority, delegated affairs of a state administration.*

**JEL:** *K20, K23, Q19.*

### Introduction

Agriculture in modern society means one of the activities in which increasingly penetrates the public interest and which in this way becomes a subject of public engagement. This engagement represents an institutionalized role of the state bodies and the bodies of lower-instance territorial-political units in the field of agriculture, as from the normative, as well as from the executive and professional point of view. Besides an intention to arrange many issues in this field through legislation, in a way to arrange the system and provide its functioning, the largest number of issues in the field of agriculture belongs to affairs that

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make an administrative activity. Although the public affairs in the field of agriculture often don't make classical authoritative affairs, their number, size, significance and needing assets point out that it is about one of the most important activities of the public authority in the field of economy, with increasing tendency. Exactly on the example of agriculture, as the field in which the state role and the government in general increases, can confirm the tendencies which characterize the modern development of public authority – growth, differentiation, professionalism and decreased role of coercion in its performance (Pusić, 1989).

The example of the European Union speaks in favour of significance of agriculture in public policy, in which it represents one of the basic authorities of this supra-national organisation. Along with the intensification of institutional relations among countries, since the '50s of past century has running the process of strengthening of the common agricultural policy of this community, and it nowadays represents one of the basic policies of the Union, as a pillar of a unique market, common economic space and balanced and sustainable development within. □ Besides a series of operations, mostly of an administrative character in the field of agriculture, but also those normative by which creates the common policy and concentrated within the EU bodies, the state cooperate actively considering the national and regional policies in the field of agriculture, up to the highest level of harmonization – the Council of Ministers. There are several bodies or other organisational forms which are engaged in affairs in the field of agriculture. As an administrative authority within the European Commission, there are Directorates General (DG), of which the most significant for the field of agriculture are: DG for Agriculture and Rural Development, DG for Health and Consumers Protection, responsible for veterinary medicine, food safety and phytosanitary policy, as well as DG for Trade and DG for Regional Development (Guideline through EU policies, 2010).

In the Republic of Serbia, as the unitary state and asymmetrical decentralization, the distribution of competence in the field of agriculture has a distinctive character. Jurisdiction for affairs in the field of agriculture is divided on different levels of government. Although regarding the distribution of competence in this field in the recent past has occurred also the problems of constitutional-legal nature, the interpretation of the Constitutional Court has eliminated the systemic problems and perplexities. Besides, the original competence in the field of agriculture, among others, makes a functional component of the essence of the territorial autonomy and local authority concept, which has a multiple reflection on their overall position, starting from the right to self-organize, to the right to own incomes or cross-border cooperation (Marković, 2015). In order to realise certain values, there is also the possibility to entrust the state administration's affairs to lower-instance territorial-political organization. Delegating should affect the quality and the effects of these affairs, but at the same time, it is necessary to ensure the unity of the legal system, the existence of a unique market, economic space and balanced development, as basic constitutional principles. In this respect establish the adequate relations of supervision and cooperation between the state administration bodies and lower-instance territorial units' bodies. Number of decentralised and delegated affairs is determined by law and susceptible to changes, within the constitutional framework, so therefore is necessary to consider a dividing line among them and legal regulations they are subjected to.

### **Constitutional framework of the jurisdiction distribution in the field of agriculture**

The divided competence in the field of agriculture was established by the Constitution of Serbia among the republic, autonomous province and municipalities and towns, as well as the local authorities' units. Besides the common competence to determine and pursue policy, within which is also included the policy in the specific fields of social life such as agriculture (article 123), the constitution anticipates that the system of performance of certain economic activities, sustainable development, protection and improvement of flora and fauna (article 97) are in the republican jurisdiction. Natural resources, into which the public agricultural land is also included, and the law stipulates it as a value of general interest, are state-owned, and therefore the republic regulates by law the way of their use and takes care of balanced and sustainable regional development. Nevertheless, one more field in jurisdiction of the republic, according to the law on agriculture and rural development, is the insurance of agricultural production (Petrović, Njegomir, Počuča, 2013).

Autonomous provinces, in accordance to the law, arrange issues of provincial significance in some constitutionally regulated fields, including agriculture (article 183). The law determines which the issues are. In the provincial jurisdiction in neither to establish and regulate the system, nor to pursue the policy in the field of agriculture, but those are the issues for which a legislator estimates they are of provincial significance (*Decision of the Constitutional Court, no. IV3-353/2009, 10<sup>th</sup> July 2012*). Number and coverage of these questions is not specified, it is changeable. The provincial jurisdiction in the field of agriculture comprises also the normative and administrative character (Marković, 2006). For the needs of performing operations in its jurisdiction, the province forms its own administrative bodies. Nevertheless, the right of population to the provincial autonomy, as well as the local autonomy, where also belong operations in the field of agriculture, as well as the original competences on these levels, is subjected only to the control of legality, not suitability (article 12).

Municipalities and towns also dispose with the original competences in the field of agriculture, which make the essence of right to local authority. Municipalities and towns take care of protection, improvement and utilisation of agricultural land (article 190). In addition to rights to make own developmental programs, which necessarily include the field of agriculture, i.e. taking different measures and allocating funds for its development, which represents the jurisdiction of planning character, the original jurisdiction in the field of agriculture comprises mainly administrative and professional operations (Golić, 2012).

Although there is conferred jurisdiction among different levels of government in the field of agriculture, the most important operations in the field of agriculture however belong to the republic, i.e. the state administration bodies. However, the state administration affairs in this field are not performed only by the state administration bodies. Certain tasks of the state administration in this field of social life can be legally entrusted to other subjects, and first of all the provincial and local bodies, i.e. the bodies of provincial and local administration, which in that case perform them as the entrusted tasks (Milkov, 2009). Delegating affairs is determined in a legal theory whether as a form of decentralization (Marković, 2015) or as a form of a distinctive dispersion, also called "the concealed decentralization" (Pusić, 1989).

In this context, the decentralized affairs will be considered the original affairs of autonomous provinces and local authorities units, which are not in jurisdiction of an administrative authority, unlike the delegated affairs of the state administration, which have been always performed by the bodies of provincial or local authority. The bodies of provincial and local administration form to carry out administrative tasks from the original jurisdiction of autonomous province, i.e. local authority. However, if the republic delegates it by law, they can also perform the specific affairs of the state administration in different areas (Lončar, 2014), and thus in the area of agriculture.

Differentiation into the original and delegated affairs of autonomous province and the local authority units is of special significance, while affiliation of administrative tasks in the field of agriculture determines the legal regulations they are subjected to. This legal order determines the way of these affairs performance, organisation, subject and scope of supervision, financing, the establishment of cross-border cooperation, which refers especially to the normative aspect of their prosecution and instruments of protection.

### **Original and delegated affairs of the provincial administration in the field of agriculture**

The meaning of territorial autonomy is in particularity of certain part of territory, which primarily implies national or historical, but also unbreakably an economic criterion, because the right of narrower territorial units to exercise legislative power in material sense in those fields with certain particularity of interests or needs, strengthens also with adequate sources of income and other instruments of impact on the state in these fields. Taking into consideration geographic and economic characteristics of part of the territory of Serbia which encircles AP Vojvodina, agriculture is the field with the special provincial interests. Likewise, by analysing solutions in the comparative law, which refer to the position of comparable units at the sub-state level, such as Spanish and Italian regions, the autonomous units in Denmark, Finland or Great Britain, there will be observed the existence of important competences of each of them in this field (Font, Gutiérrez Suárez and Parrado Diez, 1999; Caperchione, Zuffada, 2003; Vučetić, 2012, Pejić, 2007).

The constitutional resolution on the autonomous provinces jurisdiction in the field of agriculture and possibility of delegating the specific affairs of state administration to this level of government is worked out by the *Law on Establishing Jurisdiction of the Autonomous Province of Vojvodina*. This law determines the matters of provincial importance in this field. Nonetheless, it also sets the affairs which delegate to AP Vojvodina, and, in this respect, it has a character of omnibus law, while instead of defining the matters of provincial interest and affairs which delegate through some laws in this field in which they are competent according to the Autonomous Province Constitution, is done by a unique legal act, which is partly unusual (Milkov, 2009) especially regarding the delegated affairs, since they are part of the republic affairs entirety, and subjected to different legal regulations. The original affairs have prevalently financial, organizational and professional character. This is helped by the fact that, after the Constitutional Court has declared several provisions of this law as unconstitutional a new law hasn't been passed. According to unconstitutional decisions, the established

jurisdiction has considerably surpassed a constitutional concept of territorial autonomy, predicting the jurisdiction of the province to set and pursue policies in the field of agriculture and arrange the system of this economic activity, which are strictly set competences of the republic (Lončar, 2010). Consequently, the need for a new law reflects also in providing an adequate measure of affairs of provincial interest in the constitutionally established system of jurisdiction distribution. Taking into consideration the geographic and economic specificities of AP Vojvodina, agriculture is one of the fields with, or might be with certain specific needs and interests, where there is an increased need for decentralization. Besides, agriculture as a respectable potential of economic development represents also on other ground a provincial level interest, because it has jurisdiction also in the field of development planning.

According to the law (article 13), which represents the fundamental for realising the provincial jurisdiction, AP Vojvodina through its authorities, in the field of agriculture and rural development, and in accordance to the law:

1. Raises funds from agricultural land utilisation on the territory of AP Vojvodina in accordance to the law and regulates conditions and a method of allocation and use of these funds,
2. Forms a special budget, funds or other forms of organisation to which these funds are directed,
3. Determine the professional activities on the improvement of agricultural production and establishes agricultural services,
4. Takes over founding rights over agricultural services, established on its territory,
5. Founds forecasting-reporting service,
6. Suggests the competent ministry conditions for export and import of certain agricultural products.

The delegated affairs in the field of agriculture are administrative affairs in an organizational and functional sense of word, unlike the original, which are not primarily under the jurisdiction of provincial administrative bodies. They include the jurisdiction of AP Vojvodina to allow an appeal the issues of agricultural land utilization, against the decision of the municipal, i.e. city administration on its territory, through its administrative bodies. Thus, it is about a classical administrative work (Tomić, 2016).

The law on establishing jurisdiction within this field determines also the competences in the field of livestock breeding and veterinary medicine as special entreties, which include the normative and organisational affairs. In the field of livestock breeding and veterinary medicine, AP Vojvodina, as the original operations, in accordance to the law:

1. Makes long-term program of measures for implementing a breeding program for the territory of AP Vojvodina, in accordance with the unique program of the Republic of Serbia,
2. Forms the Scientific-Expert Council for livestock breeding,

3. Adopts an annual program of measures for implementing the breeding program on the territory of AP Vojvodina,
4. Receives and processes documentation for allocation of incentives and other assets from the AP Vojvodina budget in the field of livestock breeding.

The delegated affairs in this field of agriculture are administrative affairs of authoritative character. Through its administrative bodies AP Vojvodina:

1. Gives consent for using in reproduction of high-quality breeding cattle and bees for the territory of AP Vojvodina,
2. Determines the fulfilment of working conditions on the selection of cattle on the territory of AP Vojvodina,
3. Sets an authorized breeding organization on the territory of AP Vojvodina for conducting selection in livestock breeding,
4. Gives consent to authorized breeding organizations on entrusting control under production in livestock breeding.

*Law on Agriculture and Rural Development* anticipates the authorization of autonomous province bodies (as well as the local authority units) to set supporting measures for carrying out the agricultural policy for the autonomous province territory. The republic sets the agricultural policy and determine with it long-term directions of agricultural development – establishment of a market economy, increasing profitability of Serbian agriculture and cares about the development of rural areas (article 4), and at the same time provides a role of decentralized units in its implementation. It implies also the right to issue planning documents, which must be harmonized with the republic documents. The provincial bodies (and the local authority bodies) make a program of support for implementing the agricultural policy, with previous concordance of an authorized ministry, because it is about the republic jurisdiction. This program sets funds for the implementation of agricultural policy, which ensure in budgets of these territorial units. In order to provide a unique agricultural policy-making, which means a constitutional category, the program of support to its implementation in autonomous province and the local authority units cannot be in contradiction to the National program and the National Program of Rural Development. Within their powers of organizational character, the provincial bodies can be established by legal entities for support to the agricultural policy implementation. Those can be special organizations, public services, but most usually public agencies.

*Law on Incentives in Agriculture and Rural Development* arranges closer the issues of incentives, role of the provincial and local bodies in their planning and use, and also the relation with the republic administrative bodies regarding these affairs. It determines the right of lower levels to set the measures of support for agricultural and rural development policy, with the fact that it partly limits their purpose, providing that they cannot make direct payments of certain recourses. Particularly noteworthy is the obligation of the provincial and local authorities to submit to the ministry an annual report on the implementation of measures of

agricultural policy and rural development, but this obligation has more declarative character, while it doesn't affect directly the non-central bodies work, but provides a unique overview of support to agricultural and rural development policy and the compliance of planning acts (article 13).

*Law on Agricultural Land* anticipates the existence of one more planning act under the jurisdiction of autonomous province – agricultural base of protection of use and arrangement of agricultural land for the provincial territory. It is passed by an executive body – Provincial Government of AP Vojvodina. Obtaining opinions of an authorized ministry happens before passing the law, by which tries to provide an obligation proclaimed by the law to adjust to an agricultural base of the republic (article 5, paragraph 3 and article 6, paragraph 3), although this compatibility mustn't necessarily be provided by the opinion, because it is not binding. Later may result from it, as a planning act, legal acts which hierarchy is set by the constitution and in respect of which there are adequate legal means. The provincial administrative bodies make also the annual program for implementing the provincial agricultural base, also along with previously obtained opinion of the ministry.

The extension services in agriculture are also the subject of public-legal arrangement, i.e. regarding their performance establishes the jurisdiction of different levels of government, whether in form of material-legal regulation, planning or performing the administrative affairs, including also financing and control. The extension affairs which are performed in the field of agriculture are done in general due to raising the general level of knowledge and informing of agricultural manufacturers, increase of competitiveness and modernization of agricultural production, increase of profitability of production and quality of products, introduction of healthy-safe food production, encouraging the association of interest of agricultural manufacturers, natural resources preservation, the environment protection and improvement of life conditions and the culture of rural life, and thereby also the rural development (article 3). Adequate legal entities and entrepreneurs perform them directly. The *Law on the Provision of Consulting and Professional Activities in the Field of Agriculture* anticipates that these entities can be entrusted also performing the *professional activities* in different fields of agriculture, which have been determined by the law. Performing the professional activities in agriculture of interest for the autonomous province on its territory is performed in accordance with the *programs* it makes, while funds for their realization are provided by the budget of autonomous province. The provincial administrative bodies make also a medium-term and annual program by which provides the improvement of *consultative activities* performance. Since it is expressly stated that it is about the provincial interest, and defined character of funds for their financing, this issue would be of *decentralized* character. In this field the provincial administrative bodies are *entrusted* the authorization to issue licenses to agricultural consultants, who have residence on the provincial territory. Director of an administrative body of autonomous province issues them on request of a physical person (article 10). Nonetheless, he issues a form, content, and method of using, the issuance and cancellation of ID cards of agricultural consultants. Director of the provincial administrative body defines an organization which trains agricultural consultants and manufacturers, and which is registered for these activities (article 23). The provincial administrative bodies

supervise also inspection over the delegated affairs. Thus, it is about the classical state administration affairs of authoritative character, which entrust to a non-governmental entity.

In the process of expropriation of agricultural land, the provincial administrative bodies perform as the delegated affairs the ones that perform the republic administrative body in the remaining part of the territory. This is the second instance resolving and granting permission for the implementation of preparatory actions in the process of expropriation.

One of the basic rights of autonomous provinces to self-organization is the right to autonomous arrangement of bodies – their organization, role and relation, within the constitutional framework (Pajvančić, 2009). This right is the most expressed in the arrangement of provincial administration. This framework determines the original jurisdiction. However, the provincial administrative bodies perform both original and the state administration affairs, delegated to them by the law. According to the *Provincial Assembly Decision on Provincial Administration* (article 33), the activities in the field of agriculture are performed by the Provincial Secretariat for Agriculture, Forestry and Water Management. These activities refer to the preparation of official documents for the Assembly or the provincial government, and by which: makes the program of measures of support to agricultural policy implementation; regulates conditions and a method of distribution/use of funds gained from the agricultural land utilization; forms a special budget in which direct funds gained by the agricultural land utilization; defines professional activities for the improvement of agricultural production; establishes and takes over professional agricultural services and carries out the founding rights over them; establishes the forecasting-reporting services and carries out the founding rights over them; suggests to a competent ministry the export/import conditions of some agricultural products; makes long-term program of measures for the implementation of breeding program for the territory of AP Vojvodina and the annual program for its implementation; establishes a scientific-expert council for livestock breeding; adopts, implements and monitors regular and extraordinary defensive measures against internal and external waters; suggests the establishment of public enterprises under the jurisdiction of the Secretariat. The provincial secretariat performs also the activities regulated by the law in the field of agriculture, water management, forestry, hunting, livestock breeding, aquaculture, beekeeping and veterinary medicine, while these laws regulate a competent authority of the autonomous province. It is regulated by the provincial Assembly decision that this Secretariat performs as delegated those affairs of the state administration which are delegated by the law to the provincial administrative bodies. It receives and processes documentation for the allocation of incentives/other funds from the AP Vojvodina budget in the field of agriculture, forestry, hunting, water management and livestock breeding. The provincial secretariat therefore performs all the activities which are under the jurisdiction of the provincial administration in this field, which include executive affairs, professional and developmental activities and supervise the mentioned enforcement. It also monitors, controls and helps the public enterprises and public services operations of AP Vojvodina from its scope.

### Original and delegated affairs of the local authority

The right to a local self-government, by which limits the state government, includes in its material component also issues in the field of agriculture, which have been put in the original jurisdiction of municipalities, towns and the city of Belgrade by the constitution and the law on the local self-government. Formulation of this jurisdiction in the constitution includes primarily an executive aspect, i.e. performing the activities related to protection, utilization and improvement of agricultural land (Milkov, 2013). However, they include some regulatory affairs as well. Units of the local self-government, according to the Law on the Local Self-government (article 20), make a basis for protection, utilization and arrangement of agricultural land. They take care of their implementation, determine erosive areas, take care of the use of pastures and make decisions on transformation of pastures into some other culture. Hence, the primary regulation of this area is not under the jurisdiction of a municipality or town. The republic regulates it as a system, while the autonomous province regulates issues of the provincial significance. Regulations which can be possibly passed by a municipality or town are executive, and doesn't have a legal character in material terms. Hence, the constitutional concepts neither eliminate the jurisdiction of the lowest level of government, nor it is reduced to a mere doer, but stays on the concept of the local self-government, which comprises administrative affairs and "a narrow government authority" (Petrović, 2003). The powers in the field of agriculture meet in the local self-government systems of almost all European countries (Vučetić, 2012). The difference comes out from the character of jurisdiction, or in which extent they include regulatory affairs, i.e. administrative or professional affairs, primarily disposing with financial resources for support to development in this area.

*Law on Local Self-government* anticipates the possibility that municipalities and towns perform certain activities of inspection in the field of agriculture, if it is delegated to them by a special law (article 22). Realization of such possibility depends on the will of a legislator to explicitly entrust its performance to municipalities or towns, in regulating some of the relevant issues where there is a need for inspection.

*Law on Agricultural Land* anticipates a large number of affairs which delegate to municipalities and towns, and these are mainly the administrative affairs. It anticipates, among other things, that a supervisor of the local self-government unit performs the implementation of anti-erosion measures control, determined by the law. Municipalities and towns have an obligation to determine the program of soil protection from wind erosion by lifting agro-protective belts, perennial crops and plantations or by applying other forms of protection and to predict dynamics by years for this program execution (article 19). The local authority was also delegated the affairs related to a first-instance allowance determination for the change of arable agricultural land use (article 25). Obligation to pay, as well as a fee for the change of use and also the exemption from payment of fees sets the municipal, i.e. city administration by the resolution which has a character of a constitutional administrative act, at the request of an interested party or by order of an agricultural inspector. Forty percentages from realized funds on that basis belong to a local budget, but at the same time was determined the purpose of these funds. They serve for the realization of an annual program of agricultural land protection. Since the republic body is competent to allow an appeal, there is clearly

determined the character of these delegated affairs. Nonetheless, the local self-government bodies are authorized for the consolidation of holdings. The municipal assembly, as its highest authority, specifies the territory which arranges by the consolidation of holdings, with the consent of a ministry specifies the consolidation of holdings program, makes decision on its implementation, establishes the principles of land consolidation mass distribution, and forms the commission for consolidation. The most important affairs of local authority in this field concern the utilization of agricultural land, which, as the natural resource, has been owned by the republic. Agricultural land owned by the republic uses according to an annual program of protection, organization and utilization of agricultural land, which is made by a supervisor of the local self-government unit. If the program doesn't make, a supervisory authority of the ministry is anticipated. The ministry, without delaying, and within 15 days from the date of deadline for its adoption expiry, i.e. from the date of deadline expiry for making decision on the public announcement, notifies the competent minister of finance which temporarily suspended the transfer of funds from the republic budget, or the related part of tax on salaries to this unit of local self-government, until this obligation isn't discharged. Nevertheless, the municipal administration performs also the affairs concerning the lease of state-owned agricultural land, assigning the agricultural land use without paying compensation to certain entities or assigning land for non-agricultural purposes, under the conditions provided by the law. All decisions regarding these issues are made with the consent of the ministry competent for the agricultural affairs.

Some of the most important affairs of the state administration are delegated to the local self-government units by the *Law on expropriation*. In the municipal system of territorial organization this right was decentralized, and the existing solution has been the consequence of centralization set by the constitutions in the year 1990 and 2006. However, instead of the centralized performing, the delegacy, taking into consideration "the nearness" of all expropriation elements, primarily objects, but also subjects in this relation, provides undeniably increased efficiency and protection of interests which permeates in this relation. Unlike the government, as a carrier of executive government, which is competent to determine the existence of public interest, the local government units or more accurately their administrations make decisions on the expropriation of the specific immovability by adopting a constitutive, legally bound administrative act (Dimitrijević, 2008), which means a central phase of this administrative procedure, and taking into consideration a series of particularities related to the agricultural land expropriation, this solution has proved to be as the most correct of all possible combinations related to the distribution of public authorities. In addition to the adoption of solutions on expropriation, the municipal administration has a mediating role in providing by common consent fixed compensation, but not the right to make decisions authoritatively (Lončar, 1997).

*Law on the Provision of Consultative and Professional Activities in the Field of Agriculture* anticipates also certain jurisdiction of municipalities and towns. Performing professional activities in agriculture of interest for a local self-government unit on its territory is done in accordance with the programs it makes, while funds for their performing are provided in this unit's budget (article 7). The local self-government unit can make, when there is a need,

a developmental program of consultative affairs in agriculture on its territory, if there are provided funds. This is about the affairs of planning and professional character, and also the absence of delegated affairs of the state administration, unlike the province they are delegated to.

Organizational autonomy of the local government is significantly more limited in regard to the provincial autonomy. It is more precisely arranged by the law on local self-government, and its full meaning gets in terms of the right to arrange own administrative bodies. The municipal administration forms as a unique body in units with up to 50 000 inhabitants, while those with the larger population can form more bodies. However, it is not often the case, because there tends to provide a higher level of administrative affairs compliance through a unique organization. The organizational units, as well as the special organizations, form within the unique administrations, depending on the specific needs of a local community. The local authority, besides the decentralized administrative affairs, performs also the entrusted affairs of the state administration. Nevertheless, municipalities and towns can perform their activities through inter-municipal cooperation, i.e. they have a right to establish common bodies, services and enterprises by which can concentrate the local authority affairs, while the right to common organizational forms doesn't apply to parliamentary affairs and thereby partly reduces the negative effects of asymmetric decentralization (Golić, 2014). When it comes to affairs in the field of agriculture, this possibility is widely applied in Europe, even in the field of regulatory affairs, especially in the Netherlands, Belgium, France and Finland (Hulst and Van Montfort, 2007).

There is a unique city administration for all original and delegated affairs of the state administration in the city of Belgrade. Secretariats and special organizations are its organizational units. A special Secretariat of Agriculture was established for affairs in the field of agriculture. It performs the affairs which refer to: preparation and adoption of the annual protection program, arrangement and utilization of agricultural land for the city territory; fixing a market price of lease of the state-owned agricultural land; preparation of acts on free use, lease by the right of pre-emption and the lease of state-owned agricultural land; preparation of acts on the distribution of funds generated through the compensation for change of arable agricultural land use and the lease of agricultural land; control of spending the earmarked funds and work on protection and arrangement of the state-owned agricultural land; settlement in a first-instance administrative procedure on obligation to pay and a fee for the change of arable agricultural land use and the exemption of compensation payment; preparation of enactments and other acts in the field of agricultural land. In the Secretariat are performed also the affairs which refer to preparation of measures of support programs for the implementation of the city agricultural policy; the initiation and conduct of proceedings for every form of incentives, set by this program; preparation of acts on the incentives allocation, as well as the other affairs from the scope of the Secretariat, in accordance with the law, Statute of the city and other regulations. The Secretariat supervises the work of legal entities established in the field of agriculture over which the city has a direct or indirect control of capital, as well as the state administration affairs which the republic delegates to the city in the field of agriculture. The city of Novi Sad, unlike Belgrade, has more city administrations

which perform administrative affairs for which the city is competent, as well as the delegated affairs of the state administration. Although the range of these activities is similar, the specifics of every town, their needs, a number of users or problems they meet, determine as the financial possibilities the concrete organizational models of affairs in the fields in which they are competent, such as agriculture. The affairs in the field of agriculture are performed within the Directorate for Economy, with a special sector for agriculture. The similar solution we can find in Kragujevac, provided that the affairs in the field of agriculture are organized in a form of a special department which consolidates agriculture and water-regulation.

### **Relation between the state administration bodies and the bodies of provincial and local authority in performing tasks in the field of agriculture**

Relations between the state administration bodies and the provincial/local administration are defined by the character of affairs performed by non-central authorities. Unlike the decentralized affairs, where only powers of central authorities are determined concerning the constitutionality and legality (Tomić, 2016), with the delegated activities were established much wider, broader and more significant powers, by which can effectively affect their performing (Milkov, 2010). Trait of delegated affairs justifies these powers – these remain the state affairs, the state authorities retain responsibility for them, finance them, only their performing is entrusted to non-central entities.

Decentralized affairs in the field of agriculture, as the affairs in the original jurisdiction of autonomous province or the local self-government units, are not subjected to the control of their performing suitability (article 12 of the Constitution). The relation of cooperation and informing possibly establishes in regard to these activities. On the other hand, the autonomous province and local self-government units have a series of special rights, starting from a right to appeal to the Constitutional Court in case that these rights were injured by an individual act or a higher instance action, to a right to start the procedure for assessment of constitutionality and legality, if the violation arose from a general act (Dimitrijević, Vučetić, 2011). Nevertheless, in performing the decentralized affairs, and what is especially significant for the field of agriculture regarding the possibility of mutual use, protection or improvement of agricultural resources in border areas of Vojvodina, the previously mentioned non-central levels have a right to a cross-border cooperation, which can result in specific types of general acts (article 3 of the Law on Establishing Jurisdiction of APV), but in its establishment must take part the assembly at a certain level. The agreements must be, among other, in accordance with the Serbian foreign policy (article 181 of the Constitution). The compliance regarding the local government ensures by the government approval of the decision to establish the cooperation, while in regard to the provincial agreements, such concordance isn't predicted by the law.

Agriculture is one of the fields in which the original jurisdiction of lower levels is accentuated by the constitution and determined by the law. In performing the original affairs – non-central authorities are decentralized, and there is no hierarchical relation to the state administration bodies. The state administration bodies' powers, by which protects the constitutionality and legality are only of an initial character, and they cannot be affected in any way in performing the

merits of decentralized affairs. When it is about the local government affairs, the government, on a proposal from the competent ministry, can hold up execution of their general act and initiate the proceedings in the Constitutional Court for the assessment of constitutionality and legality. The possibility of holding up execution when it comes to the provincial regulations are not under the jurisdiction of executive bodies, but possibly the Constitutional Court, but there is the possibility for initiating the proceedings for the constitutionality and legality assessment before becoming effective the provincial general act (Pajvančić, 2009).

When it comes to delegated affairs of the state administration regarding the relation between non-central and the state administration bodies apply the general supervisory powers, by which controls work (Tomić, 2016), determined by the *Law on State Administration* (article 47). These powers comprise the right of a ministry competent for the supervision of delegated affairs performing to: 1) require reports and information about the work, 2) determine the state of execution of tasks, warn on the observed irregularities and remedy measures and deadline for their non-performance, 3) issue instructions, 4) order launching efforts it considers necessary, 5) initiate proceeding to verify responsibility, 6) directly make some action if its assesses that the law or some other general act cannot be enforced otherwise, 7) suggests the government to undertake measures it is authorized for. These powers determine the hierarchical relation regarding the delegated affairs by which can be affected on their performing the merits.

Besides, the competent ministry has powers which are predicted in qualified situations of default or improper performing of delegated affairs. It is obliged to directly execute the delegated affairs if the default by the provincial or local administration bodies could cause the effects harmful to human life or health, environment, economy or the assets of greater value. Anyway, if despite multiple warnings, a non-central entity doesn't start to perform the delegated affairs or doesn't start to perform it regularly and timely, the ministry can take over performing the affairs, but not longer than 120 days (article 48).

Taking into consideration a fact that certain regulations in performing the delegated affairs adopt in the field of agriculture, it is necessary to point out also to the initial powers related to them. When a non-central entity is delegated an authority to adopt the regulations by the law, a provincial or local authority is obliged to obtain an opinion on the constitutionality and legality of regulations by the competent ministry before their announcing. In case of objections, the ministry is obliged to submit a reasoned proposal how to harmonize a regulation with the Constitution, law, or other general act of the National Assembly and the Government. If a provincial or local authority fails to comply with the proposal, the ministry is obliged to suggest the government to abolish or cancel this regulation by its resolution, if it isn't in accordance with its general act. If this regulation isn't in compliance with the Constitution or the law, the ministry is obliged to suggest the government to hold up execution and initiate proceedings at the Constitutional Court for the assessment of constitutionality or legality.

When it comes to the specific affairs in the field of agriculture, there was, several previously stated cases, an obligation of giving consent of the government authority – ministry of the planning acts and general acts of the province or local self-government. The right of

the ministry, established by the law, to make second-instance decisions in administrative procedures delegated to lower levels, provided that these powers are sometimes delegated to the provincial administration, when the local administration settles in a first-instance.

### Conclusion

Taking into consideration the distribution of competence among different levels of government in a constitutional system of Serbia, there is confirmed its unitary, asymmetrically decentralized character. Unlike the local authority, which mainly disposes with the administrative jurisdiction and one narrower range of issues that belong to the “government authority” with pretty limited possibility of normative operation, planning and participating in the creation of wider policy in the field of agriculture, a province, as a territorial autonomy, requires in its essence a higher level of peculiarity, from which result also wider authorization. It is recognizable on the example of the competence distribution in the field of agriculture the efforts of a constitution-creator to confirm a previously proclaimed idea on economic peculiarity of part of Serbian territory which represents the Autonomous Province of Vojvodina, but at the same time to confirm the unitary character of the state. Measure of the provincial jurisdiction is determined by the law, it is not closed, but its parameters are determined by the Constitution, as regarding original, as well as the delegated affairs. The republic has jurisdiction to arrange the system and pursue policies, while the province has those jurisdictions which, depending on needs in the field of agriculture, will be determined as matters of provincial interest. It is clear that decentralized jurisdictions of the province necessarily include the normative, planning, organizational, financial and administrative aspect.

Besides the original competences, which were marked as decentralized, the delegated affairs of the state administration essentially were making most of the local authority affairs, but also significant operations of autonomous province in the field of agriculture. The existence of a unique system ascertains by analysing the jurisdiction in this field. It is not only the question of the constitutional proclamation, but also the measures of legal distribution of operations and determination of their order, which essentially determines whether there is a system with predefined role of different levels of government or it is just proclaimed, but it is essentially out of tune and uncoordinated order of different policies, activities and measures, which necessarily disables the development of agriculture as one of the strategic branches of economy, great potential and necessary public engagement. The answer is positive, although the procedure of jurisdiction determination and often ill-defined way of harmonization of predicted planning acts was negatively reflected on the transparency within the system, which could make a dilemma regarding the jurisdiction, but also the responsibility of different levels of government.

In regulation of the autonomous province jurisdiction, there were two possible approaches: omnibus and determination by the law in certain fields. Advantages and disadvantages of these approaches are elaborated in a professional community, but the existing solution on the example of jurisdiction in the field of agriculture, as a result of the established unconstitutionality of a larger number of decrees of the Law on Establishing Jurisdiction and the approach to regulate the specific issues through partial laws, represents in fact a brand

new approach, which is the worst solution, from the aspect of complete certainty regarding the distribution of jurisdiction and clear differentiation between decentralized and delegated affairs. Numerous inconsistencies, incoordination and contradictions can result from this. Accordingly, there can be concluded that within the existing system of relations, which guarantees a unique system and policy in the field of agriculture, a certain number of powers of normative character – primary arrangement of particular issues can be decentralised, first of all regarding the AP Vojvodina, and on the other hand to stimulate the basic decentralization units – municipalities and towns, to unify as many tasks and activities in the field of agriculture as possible, by which, through easier access to financial funds, decrease of costs, exchange of experiences and dissemination of best practices in accomplishing their roles in the field of agriculture, but also development planning in general, would raise the awareness and also recognition of their ability for strengthening the role of local authority in the field of agricultural development in local and regional entities. In that way would decrease also the existing negative repercussions of asymmetric decentralization.

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## DECENTRALIZOVANI I POVERENI POSLOVI DRŽAVNE UPRAVE U OBLASTI POLJOPRIVREDE

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### Rezime

*U Republici Srbiji distribucija nadležnosti u oblasti poljoprivrede ima osoben karakter. Nadležnost za poslove iz oblasti poljoprivrede dele različiti nivoi vlasti. Tu podelu prati različit pravni režim poslova koje necentralni subjekti obavljaju. Mera pokrajinskih nadležnosti nije unapred zatvorena, ali su njeni parametri određeni nadležnošću Republike da uređuje sistem i vodi politiku, prepuštajući pokrajini onaj nivo nadležnosti koji će, zavisno od potreba koje u oblasti poljoprivrede postoje, biti određene kao pitanja od pokrajinskog značaja. Ove mere nužno uključuju normativni, planski, organizacioni, finansijski i upravni aspekt. Lokalna samouprava raspolaže upravnim nadležnostima sa vrlo ograničenom mogućnošću normativnog delovanja, planiranja i učešća u kreiranju šire politike u oblasti poljoprivrede. U pogledu poverenih poslova radi se uglavnom o klasičnim upravnim poslovima autoritativnog karaktera, s tim da su nadzorna ovlašćenja nad njima znatno veća. Cilj ovog rada je da identifikuje izvorne i poverene poslove državne uprave, njihov sadržaj i odnos organa državne uprave i organa uprave decentralizovanih jedinica u njihovom vršenju.*

***Ključne reči:*** *poljoprivreda, pokrajinska uprava, lokalna uprava, povereni poslovi državne uprave*

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