

IZABELA LIPIŃSKA

## **JURIDICAL ORGANIZATION OF MARKET IN THE SECTOR OF MILK AND MILK PRODUCTS**

*From Department of Food Management Economics  
of The August Cieszkowski Agricultural University of Poznań*

**ABSTRACT.** Since 1 May 2004 Polish market in the sector of milk and milk products has been covered by common regulation No 1255/1999 with latest amendments. All common instruments influence the production and turn.

**Key words:** milk market, dairy law, quota, Common Agricultural Policy

### **Introduction**

Dairy industry is one of the main branches of Polish agri-food sector. That is why it should be protected and well organized. The milk market is one of the agricultural markets for which the juridical organization was created (besides sugar, potatoes starch, fruits and vegetables, dried fodder, tobacco, etc.) after the change of the political and economic system in Poland in the beginning of 90s.

After the appearance of the chance of the association and accession to the European Union arose the necessity of creating the market in milk and milk products. Polish legislator had to implement proper legal instruments to prepare Polish dairy to become a part of Common Organization of Markets. The adjustment process of dairy law started at the end of 90s.

At this place a question arises what is the organization of Polish dairy industry. What was the process of its adjustment to common organization and what is the situation of the market after joining the European Union, under the influence of Common Agricultural Policy.

The aims of this paper are: first, to investigate the evolution of dairy law, second, to estimate the situation of Polish dairy industry in the first year of accession; third, to reply to the question if milk industry is the full-right member of the common market in milk.

The paper's structure is divided according to the aims. The divagations should start from the historical comments about the milk market in Poland and its stages of legal adaptation to Common Agricultural Policy. One should remember that accession to EU happened progressively. Keeping it in mind, it is important to analyse main common instruments which influence on it. Accordingly to that, all of the basic terms should be defined. The conclusion consists of the evaluation of Polish milk market from the juridical adaptation point of view.

### **The adjustment of Polish regulation in the sector of milk to European standards**

Till 2001 there were not any regulations which could influence or organize the milk market in Poland. There was a huge diversification in this sector. Neither the control of production and quality of milk existed, nor special hygienic standards or rules of food safety. Until passing of the first act which implemented the basic rules for its organization, on milk production influenced only the law of Agricultural Market Agency (**Act of 7 June 1999...**) in the subject of intervention purchases of butter and skimmed milk powder. The export subventions and customs were used, too. There was a gap in the law concerning the limitation of the production.

As a result of the acceleration of the economic, political and legal adjustments of whole Polish agriculture, the first "milk regulation" was enacted. The "**Act of 6 September 2001** on the regulation of the milk and milk products' market" came in force on 1 January 2002. It implemented such legal instruments as: quoting of the national milk production, purchases and intervention sales of some milk products, application of subsidies to the storage, processing and consumption of milk products. The provisions made on milk quota came in force later, on 1 April 2004 (see Art. 44 of the **Act of 6 September 2001...**). The mentioned act gave definitions of many new terms which consider milk market, like: whole-sale supplier, direct supplier, reference year, the quota year, reference fat content, etc. As a whole-sale supplier must be understood as a natural or legal person, or an organizational unit without corporate powers, carrying out the production of milk in the possessed farm and selling it to purchasing subjects. A direct supplier is a natural or legal person, or an organizational unit without corporate powers, conducting the milk production in the possessed farm and introducing milk products for a direct consumption into the market.

According to Art. 2 of "milk legislation", the milk market covers such products as: consumption milk, skimmed milk (for animal feeding and production of fodder), skimmed milk powder, buttermilk, yogurt, kefir, and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter not flavoured nor containing added fruit, nuts or cocoa, as well as butter, anhydrous milk fat or long ripening cheese. These products can only be made from the milk obtained on a farm. Its legal definition comes from the civil code, and must be understood as the farm lands, including forests, buildings or their parts, facilities and inventory, if they constitute or may constitute an organized economic unit as well as rights connected with the running of an agricultural farm (see Art 55<sup>3</sup> of civil code – **Act of 23 April 1964...**).

The legal instruments implemented in 2001 by the first “milk act” had different influence on it. The quoting of the milk production had to entail the determination of two quotas. First one is the maximal quantity milk with the reference to fat content that can be produced in the country and introduced into the trade during the quoting year, commonly known as national milk quota. The second one is the maximal quantity of the reference fat content that can be produced and introduced in the country and introduced into the trade during the quoting year, by the individual wholesale and direct suppliers, known as the individual quota. The milk can be introduced into the trade by a wholesale supplier, and milk products by a direct supplier only within the individual milk quota granted to him. The individual milk quota could be granted to a wholesale supplier at the volume proportionate to the quantity of milk sold to purchasing subjects in the reference year<sup>1</sup> and the average weighed fat content in the milk<sup>2</sup>.

The “milk regulation” provided the creation of the reserve of national milk quota. It could be used for example granting or increasing individual milk quota of farmers starting or developing the production or granting or increasing the individual milk quota of whole-sale direct suppliers specializing in milk production.

Other legal instruments which influence the market are intervention purchases and sales of some milk products. They consider only butter and skimmed milk powder, made of national raw materials. In this case a huge role is played by Agricultural Market Agency as a public organization pursuing state intervention policy in order to stabilize the market. It is responsible for all the movements on the market. The intervention buying should take place in the necessity to maintain the stability of the market by the reference to the market price of butter and skimmed milk powder in the Member States. And it should be carried out under the tendering procedure. As far as skimmed milk powder is considered, it may be suspended when a certain quantity is reached and may be replaced by buying-in under a tender procedure. Also the subsidies for the storage and consumption of milk products are implemented. They are used in the case of an occurrence of the situation indicating the possibility of an appearance of serious disturbances of the market balance. It considers storage aid for not salted butter with the minimal fat content of 80% and maximal by water content not exceeding 16%, not salted butter with the minimal fat content of 82% and maximal by water content not exceeding 16% skimmed milk powder, fresh cream of the fat content of 35-85% and cheese of at least three-month-long ripening period. The Agency can apply subsidies for the consumption of milk and fermented milk drinks without taste additives by pupils from the primary and secondary schools, purchases of butter or anhydrous milk fat performed by producers of confectionery and baking articles, as well as ice-cream, purchases of butter by schools, kindergartners, nursery schools, social aid homes, educational centers, adoption and educational centers, purchases of anhydrous milk fat by gastronomic, purchase of skimmed milk powder and powder buttermilk for feeding the animals or for the production of fodder mixtures and purchasing of skimmed milk for the production of casein and caseinians. Those subsidies could be applied only in the case of occurrence of an excessive demand of milk products in the domestic market, posing a threat of a destabilization of the milk and milk products’ market, as well as to

---

<sup>1</sup>The reference year was a period between 1 April 2002 to 31 March 2003.

<sup>2</sup>The reference fat content is the average weighed content of fat in milk produced and introduced into the trade by whole-sale and direct suppliers in a reference year, in the scale in the country.

ensure an appropriate level of revenues of whole-sale and direct suppliers from the milk production.

The legislation brought up the Conciliatory Commission for Milk and Milk Products. Its aims are: to represent interests of suppliers, processing plants, and purchasing objects towards the Minister of Agriculture and Rural Development; to determine the detailed rules of disposing of the national reserve of milk quota; and to determine rules of co-operation in market conditions between suppliers, processing plants and purchasing subjects. Beyond the Commission, the act let established the Dairy Industry Promotion Fund, whose goals include the promotion of the consumption of milk articles, especially among children and young people, the support of sales of Polish milk products abroad, the assistance in the organization of exhibitions and participation in fairs, the support of research and development works and improvement of the quality of milk products. All the purchasing subjects are obliged to effect payments into the Fund at the amount of 0.02 PLN per every liter of milk.

### **The organization of the milk market under the influence of common regulation**

Mentioned legislation implemented new institutions which were not applied before. In accordance with them the legislator related the proper organization of the milk market. What must be stressed, in that time dairy law was one of the first regulations whose rules were adjusted to common regulation. But because of the ban of the laws' transposition into domestic legislation, had to be implemented new act (**Czechowski 2003**). It was the "**Act of 20 April 2004** on the regulation of the milk and milk products' market". It was a competence legislation and it appointed the tasks of the public bodies in the organization of the market in milk and milk products; organization and competences of The Conciliatory Commission for Milk and Milk Products and rules of running of the Dairy Industry Promotion Fund. And according to its provisions the first dairy regulation was repealed. Instead, on 1 May 2004 "**Council Regulation (EC) No 1255/1999** of 17 May 1999 on the common organization of the market in milk and milk products" came in force with latest amendments. Since then all the common instruments were implemented.

The dairy regime is dominated by a quota system that is established at national levels (**Krajewski and Borkowski 2002**). The production above the quota is a subject to prohibitive fines called "super levies". Dairy production is protected through tariffs on dairy product imports and supported by export subsidies and surplus intervention purchases of dairy products. For the period of being in force of the basic regulation (**Council Regulation... 1999**) the basic price system is set. The intervention prices for 100 kg of butter are: 305.23 Euro from 1 July 2004 to 30 June 2005, 282.44 Euro from 1 July 2005 to 30 June 2006, 259.52 Euro from 1 July 2006 to 30 June 2007, 246.39 Euro as from 1 July 2007. The intervention prices for 100 kg of skimmed milk powder are: 195.24 Euro from 1 July 2004 to 30 June 2005, 184.97 Euro from 1 July 2005 to 30 June 2006, 174.69 Euro as from 1 July 2006. There is the intervention and private storage system for butter. Where the market prices for butter are at a level lower than 92% of the intervention price for a representative period, the intervention agencies of each

Member State may buy in butter at 90% of the intervention price between 1 March and 31 July each year. The butter bought in must have certain characteristics and meet certain requirements. The private storage aid may be granted for cream and salted or unsalted butter produced from cream or milk. The aid amount is determined in the light of storage costs and the likely trend in prices for fresh butter and butter from stocks. Butter bought in by the intervention agencies is to be disposed of in such a way as to avoid disturbing the balance on the market.

The intervention is also provided for skimmed milk powder. The intervention agencies of the Member States buy in skimmed milk powder at the intervention price between 1 March and 31 August. That milk must comply with certain composition characteristics, particularly as regards minimum protein content, which must be between 31.4% and 35.6%; the intervention price is adjusted accordingly. In this case the private storage aid is available, too. The private storage aid is also granted for certain cheeses, such as Grana Padano, Parmigiano Reggiano, Provolone, sheep's and goat's milk cheese, as well as long-keeping cheeses. The aid amount is determined in the light of storage costs and the likely trend in prices. Where the market situation requires so, the Commission may decide to remarket the various cheeses stored available for: 1) producers of skimmed milk and skimmed milk powder (including buttermilk and buttermilk powder) used for animals (these products must meet certain conditions), 2) skimmed milk processed into casein and caseinates, 3) the purchase of cream, butter and concentrated butter by non-profit organizations, institutions and bodies, 4) the sale of certain milk products to the armed forces, 5) manufacturers of pastry products and ice-cream in order to dispose of butter surpluses. In order to encourage children to drink milk, aid for the supply of 0.25 l of milk equivalent per pupil and per day is paid to educational establishments. Member states may grant additional aid. For whole milk, Community aid for 100 kg is: 21.69 euro from 1 July 2004 to 30 June 2005, 20.16 euro from 1 July 2005 to 30 June 2006, 18.61 euro from 1 July 2006 to 30 June 2007, and 18.15 as from 1 July 2007. A very important part of common organization in sector of milk is the trade with third countries. It considers such instruments as: 1) issue of import and export licenses (imports are subject to presentation of an import license; exports may be subject to issue of an export license), 2) Common Customs Tariff (the rates of duty in the Common Customs Tariff apply to milk and milk products), 3) additional duty (if imports threaten to destabilize the Community market, additional duty may be charged in accordance with World Trade Organization rules), 4) trade barriers (taxes having equivalent effect to customs duty and the application of quantitative restrictions or measures of equivalent effect are prohibited in trade with third countries), 5) tariff quotas (these may be awarded using the first come/first served principle, the simultaneous examination method, the traditional importers/new arrivals method, or other non-discriminatory methods), 6) refunds (the difference between prices on the world market and Community prices may be covered by export refunds), 7) export charges and import duties (where the free-at-frontier price significantly exceeds the Community price and threatens to cause long-term disruption to the proper functioning of the Community market, the Community may fully or partially suspend import duties and even collect export levies), 8) safeguard measures (these may be taken if the Community market is threatened with serious disturbance caused by of imports or exports).

## Conclusions

Presently the Polish milk market is totally covered by the basic common regulation. However, the process of its forming continues. For the proper organization the “**Act of 20 April 2004** on the regulation of the milk and milk products’ market” was amended by the “**Act of 4 March 2005** on amending the Act on the regulation of the milk and milk products’ market”. It came in force on 1 April 2005.

According to this regulation the following were modified: the suppliers’ registration system, the monitoring of market, the purchasers’ duties concerning the transfer of information to the President of AMA, the provisions of sell and lease contracts concerning the individual reference quota and the provisions of inheritance of the individual reference quota. However, all those improvements prove that each Member State has some “freedom” in the formation of this market (**Heller 2003**). Of course the scale is limited, but it still lets co-operate in the creating of the market.

## Literature

**Act of 23 April 1964** on civil code. Off. J. EU 16, item 93 with latest amendments.

**Act of 7 June 1990** on the establishing the Agricultural Market Agency. Off. J. EU 39, item 223 with latest amendments.

**Act of 6 September 2001** on the regulation of the milk and milk products’ market. (2001). Off. J. EU 129, item 1446 with latest amendments.

**Act of 20 April 2004** on the regulation of the milk and milk products’ market. (2004). Off. J. EU 93, item 897.

**Act of 4 March 2005** on amending the Act on the regulation of the milk and milk products’ market. (2005). Off. J. EU 53, item 469.

**Council Regulation (EC) No 1255/1999** of 17 May 1999 on the common organization of the market in milk and milk products. (1999). Off. J. EU L 160/48.

**Czechowski P.** (2003): Standardy harmonizacji prawa. In: Prawo polskie a prawo Unii Europejskiej. Ed. E. Piontek. Liber, Warszawa.

**Heller J.** (2003): Integracja Polski z Unią Europejską. Branta, Bydgoszcz.

**Krajewski K., Borkowski B.** (2002): Organizacja, regulacje i informacja na rynku rolnym Unii Europejskiej. Wyd. SGGW, Warszawa.

## REGULACJE PRAWNE NA RYNKU MLEKA I PRODUKTÓW MLECZNYCH

### S t r e s z c z e n i e

Rynek mleka jest jednym z branżowych rynków rolnych funkcjonujących w Unii Europejskiej. Jest to rynek, który posiada bardzo bogatą regulację prawną. Podstawą jego funkcjonowania jest ograniczanie produkcji mleka w postaci kwoty mlecznej. Również w Polsce od 2001 roku oddziałuje nań szereg przepisów prawnych, których ewolucja została przedstawiona w artykule. Obecnie, tj. od dnia 1 maja 2004 roku, rodzimy rynek mleka jest poddany daleko idącemu interwencyjnizmowi UE.