



**XXVIe Congrès et Colloque Européens de Droit Rural
Bucarest – 21-24 septembre 2011**

**XXVI European Congress and Colloquium of Agricultural Law
Bucharest – 21-24 September 2011**

**XXVI. Europäischer Agrarrechtskongress mit Kolloquium
Bukarest – 21.-24. September 2011**

Organisé par le Comité Européen de Droit Rural en collaboration avec
l'Université Ecologique de Bucarest

Organized by the European Council for Agricultural Law in collaboration
with University of Ecology Bucharest

Organisiert durch das Europäisches Agrarrechtskomitee in
Zusammenarbeit mit der Universität für Ökologie Bukarest

Commission II – Kommission II

Rapport national – National report – Nationaler Bericht

Hongrie – Hungary – Ungarn

**L'AFFECTATION ET LA PROTECTION DU TERRITOIRE
RURAL – USE AND PROTECTION OF LAND IN THE
COUNTRYSIDE – NUTZUNG UND SCHUTZ DES BODENS IM
LÄNDLICHEN RAUM**

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Summary

I. part

Hungary, as a country with distinguished agricultural conditions, is the member of the European Union since 2004. It lays claim to supports of the producers in the Union, and it observes food inspection regulations.

Many Hungarian representation of interest organs are members of COPA and COGECA, but efficient union representation of interest work cannot be continued in the country's agricultural interest. The protection of land, and the environment appears in the new Constitution, and the gene- modification free agricultural production is guaranteed on constitutional level.

The register of the Hungarian real estates and agricultural lands is multilevel. On the one hand, the real estate register implies it, and also appears in the agricultural parcel identifier system checked with maps formthe space uptakes. Special registers appear to the special manner of the usage of the vineyards, forest and hunting grounds.

A special regulation concerns the agricultural land, it is protected better than the rest of the property objects, and the property acquisition limitation is maintainable until 2013. The land use is possible for everybody, but over the use of 1 hectare the state registration of the land use is necessary, because of the lag of this, beside potential fines, ithe claims originating from this can not be enforced. The judicial combats, which are connected to the property and a usage, are enforceable on a judicial road, while cases related to the register are enforceable on an administrative way. The opportunity of the extraordinary judicial remedy is assured opposite the legally binding administrative decision.

II. part

In Hungary since 2010 the rural development receives an emphasized role. It contains three main areas : the rural regional development, the agriculture and the environment protection within the new ministerial structure. The land and possession politics, the area complex rural development, and the local economic development.appear on the level of the programming inside the national country strategy.

In the period of 2007 and 2013, to the planning period, the New National Rural Development Program comes into force with its accepted priorities, and the considerable redeployment between the axes is expected in the autumn

legislative cycle. On underprivileged areas, where the disadvantages are cumulative (decaying industry, aging population, and high rate of unemployment) people living there may compete with a higher support proportion, and some support forms are pre-financed.

The sustainability is the related area of the rural development and the environmentalism. The agricultural-environmental protection programs connects the land use of natural areas, so that the smallholders, who observe the natural conservation regulations, get additional supports.

Among the environmental protection and rural development supports the Life and Life + and the 4 axes of EMVA are determining.

On NATURA 2000 areas all activities have to be licensed, which entail the alteration of the natural state. The nature nearly livestock production with a compensatory support, while the conservation of the landscape elements is subsidized with a support with 100 % subsequent financing.

Forests are qualified as the mostly jeopardized areas in terms of the fire ignition. To light a fire in a forest, it is possible only in designated areas. In case of an increased fire hazard it can be forbidden. The fire ignition is the task of the fire brigade and the user of the forest. The user of the forest has to provide suitable and ancillary staff for the quench of the sylvan fires on the combustible areas.

A/1.

Hungary is member of the European Union since 01. May, 2004. Earlier it was an agricultural superpower, but today the agricultural role decreases inside the union (for example: the suppression of production of sugar beet). As a member state, of course we create our acts and legal measures in tune with the primacy of CAP, which is the results of a harmonisation process of law. ¹

As the environmental policy became common policy, we had to define viewpoints, based on which we extracted particular areas from the production, and we had to cultivate certain areas extensively because of the conservation of the fertility. With the accession the support system based on land was also transformed.

Agricultural products of Hungarian exports going to the Union have to be equal to the food law, licensing, and distributional rules of the Community. ²

From the equal membership's principle, Hungary also lays claim to all support forms, that all member states got after the accession, and of course for this we undertook all obligation deriving from the membership. The establishing of the national institutional system, necessary for the operating of CAP has been done.

The Hungarian agricultural producing can realise competitive producing of agricultural products because of our production and output experiences, existing expertise, the natural and technical conditions and aims for this. ³

A/2.

The COPA-COGECA has from Hungary 5 associated members since September of 2002, among which 4 became full right member in 1st May, 2004.

¹ See for the Hungarian EU accession: István OLAJOS: The situation of Hungarian Agriculture after the EU accession-lectured in: Course of Environmental legislation 2004 University of Hohenheim 2004. április 28.

² Tamás ANDRÉKA: Az élelmiszerlánc jogi szabályozása In: Szilágyi (szerk) Környezetjog II . Novotni kiadó 2008 11-41 and István OLAJOS Az élelmiszerlánc jogi rendszere In Csák (szerk) Agrárjog –A magyar agrárjog fejlődése az EU keretei között 441-471.p.

³ János Ede SZILÁGYI A magyar agrárszabályozás helye az európai mezőgazdasági üzemekre vonatkozó jogalkotási tendenciák tükrében (XIX. századtól napjainkig).STUDIA IURISPRUDENTIAE DOCTORANDORUM MISKOLCIENSIVM-MISKOLCI DOKTORANDUSZOK JOGTUDOMÁNYI TANULMÁNYAI 7:(2) pp. 229-247. (2006)

Since October, 2008. the undermentioned experts of three organisations take part in the work of COPA-COGECA:

- Hungarian Agricultural Chamber (member of COPA)
- The Association of Hungarian farmers and host co-operatives (MAGOSZ) (COPA and COGECA)
- The National Association of agricultural co-operatives and producers (MOSZ) (COPA)

Hungary became member of FAO in 1946 (Food and Agriculture Organization of the United Nations), and resigned from it in the years of 1950. Our country asked for the reformation of membership in the conference of 1967, and we got it, so (after the first period of 1946-52) our country joined again in 1968.⁴

A/3.

The new constitutional act of Hungary 2011. comes into force on 01th January 2011, so we would like to demonstrate the provisions of the new act in our country report. The new constitution possesses more narrowly about every question, so we may refer to it in the look of the fundamental rights of farming, and so the provisions concerning this are:

The article P is about the protection of the land: the natural resources, particularly the land, forests and the water resources, the biological diversity, particularly the native plant and species, and the cultural values constitute the nation's common heritage, and the protection, the maintenance and preserving of them for the future's generation are the tasks and duties of the nation and mankind. And we can also mention the the protection of right for property.

It means that the Constitution does not says about the freedom of farming, but about the protection of the soil and its resources merely. We find legal measures about the protection of the agricultural activity in other legal sources with lower level, not only in acts, the relevant regulation may be different on very complex, sectorial levels. The third chapter of the Act about the land (Act LV. of 1994) regulates the usage, the usage based on the property , which is not sole

⁴ OLAJOS- Csilla CSÁK - János Ede SZILÁGYI: Szakvélemény „A hegyközségek érdekképviselői tevékenységének” kérdésében. Miskolc, 2006. július 4. (felhasználó: Hegyközségek Nemzeti Tanácsa, Földművelésügyi és Vidékfejlesztési Minisztérium). valamint SZILÁGYI János Ede: Szilágyi János Ede Kamarák az agráriumban.In: Csák Csilla (szerk.)Agrárjog.Miskolc: Novotni Alapítvány, 2006. pp. 270-281

however, since a leaseholder may run a farm, indeed it is an obligation to crop the land (obligation of use). Other Act (Civil Code) implies rules concerning the usage furthermore but the rules of the Act on Land contains special measures.⁵

The new constitution raises the level of the constitutional protection of the nature and the environment to higher level. Important innovation is that it raises into constitutional level the promotion of the insurance of genetically not modified plants in the agriculture.⁶

A/4.

The registered copy of the state geodetic base map is used for the aim of the real estate register. As a real estate recording map on computerised datas (in a digital form), it is necessary to use fixed geodetic base map, if this map contains the whole settlement and it was authenticated in the course of a prescribed procedure.

In terms of the real estate register **this map** implies:

- a) the name and number of the map-segment of the settlement,
- b) the administrative borderline of the settlement, and the borderline of the inner-city area, and the outer area,
- c) the borderline of a land portion and its topographical number,
- d) buildings on land,
- e) the borderline of sub-segments, sign and name of it,
- f) sample segment for land classification, and the borderlines of the qualitative classes established with land classification,
- g) name of vineyard, name of streets and street-numbers,
- h) the entrance of cellars opening from a public domain, or from real estate of somebody else.⁷

⁵ István OLAJOS : Termőföld haszonbérlet szabályai In: Csák Csilla (szerk): Agrárjog- A magyar agrárjog fejlődése az EU keretei között Novotni Kiadó Miskolc, 2010 128-144.p.

⁶ László FODOR: Természeti tárgyak egy új alkotmányban.pp. 1-9.Pázmány Law Working Papers, 2011/21, 9 o.

⁷ Act of CXLI. /1997 az ingatlan-nyilvántartásról see more Inyvtv 2§ Réka GONDOSNÉ PUSZTAHELYI: Ingatlan-nyilvántartási jog Novotni kiadó Miskolc, 2004 Mihály KURUCZ: Magyar ingatlan-nyilvántartási jog A bizalomvédelmi hatások tükrében Budapest ELTE ÁJK 2007 3-17.p. József SZALMA : Ingatlan-nyilvántartás. Telekkönyvi eljárás Budapest ELTE ÁJK 2005. Tamás Prugberger: Ingatlan-nyilvántartás: In. Prugberger –FODOR-MIKÓ Agrárjog I. 1996.p Bíbor Kiadó Miskolc. Csilla CSÁK : Ingatlan-nyilvántartás In. Csák (szerk): Agrárjog Miskolc, 2006 158-159.p. István OLAJOS : Az egységes ingatlan-nyilvántartás hatályos

The ground-plan of other independent real estates illustrates in rate 1:100 or bigger - at a condominium the common buildings, at cooperative house the parts of building in the cooperative property, furthermore the condominia and cooperative flats - the demarcating lines of realties. It is necessary to indicate the name of the settlement, the name of the street, the street-number, floor and door-number indication on the ground-plan, furthermore the number and floor-space of independent real-estates.

But there are special land record systems, which are attached to positively particular supports, their legality is checked hereby, for example: MePAR land register, and the reference base of it is the physical block, and inside this: the agricultural parcels, which are identified by photos made from air or from space.⁸

A/5.

In litigations in connection to agricultural areas – depending of the character of the debate – the competent Land Office, as an authority, or the local court intervenes. In litigation about regional problems that local court prosecutes, where the land settles down. But the regional problem may apply to the deletion of the registration in the land-register and they ask the restoration of the original state on the title of invalidity, who's fundamental rights are offend, furthermore the prosecutor, and anyone who is concerned in the case, who proves that the registered right is lapsed, or it was ceased, ott he registered fact was changed, finally the correction of the registration, who suffered insults owing to the wrong registration.⁹

The first process to the court is eligible if the registration is not cancellable in the procedure of the authority dealing with land property, and the offence cannot be remedied, furthermore if these procedures were tried inefficiently.

For the deletion of the invalid registration the earning can be submitted against who obtained a right with the wrong registartion or quit directly from an obligation, and it is possible to submit it until the realization of invalidity of the declaration is possible.

szabályai In: Csák (szerk) Agrárjog –A magyar agrárjog szabályai az EU keretei között Novotni kiadó Miskolc, 2010

⁸ János Ede SZILÁGYI: Földnyilvántartások a támogatások rendszerében. In: Csák Csilla (szerk.) Agrárjog.Miskolc: Novotni Alapítvány, 2006. pp. 185-187.

⁹ Zsuzsa WOPERA: A polgári per alanyai: a bíróságok. In: Wopera Zsuzsa (szerk.)Polgári perjog. Általános rész. Budapest: KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., 2003. pp. 77-107.

Against who obtained bona fide further rights, because he/she believed in the validity of the previous registration, it is possible to initiate the deletion earnings within three years counted from the registration.¹⁰

And if the object of the judicial combat is the accurate statement of the border between two real estates, the local court passes judgement with the help of an expert. I mean in Hungary there is not a separately specialized court, but if a special question arises, the court involves an expert in the procedure.

A court with county competence handles about cases, when the court review of an administrative decisions is necessary, and only if the client used up the opportunity of every legal redress.

B. 6-9

Instead of „agricultural area” the Hungarian legal regulation uses the phrases: „agricultural land”. Two significantly different legal measures (Acts) regulate this area. The first, the Act on agricultural land regulates the property acquisition of agricultural land, and the land use, the lease, the property acquisition of non-agricultural lands, and these rules have also a character of agricultural law and law of things. The other measure is the Act on the protection of land, which regulates the non -agricultural use of land, and contains administrative rules of temporary and definitive extraction from cultivation, and the qualitative protection of land.¹¹ This Act has an environmental protection, and administrative legal character too.

¹⁰ Zsuzsa WOPERA: Jogorvoslat-perorvoslat; a perorvoslatok rendszerezése; perorvoslati rendszerünk változása a négyszintű bírósági szervezetrendszer kialakítása után. In: Wopera Zsuzsa (szerk.) Polgári perjog. Általános rész. Budapest: KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., 2003. pp. 313-321.

¹¹ About the Act on Agricultural Land: Csilla CSÁK: A termőföld tulajdonszerzés szabályai. In: Csák: Agrárjog- a magyar agrárjog fejlődése az Eu keretei között Novotni Press, Miskolc, 2010. 102-115.p., János Ede SZILÁGYI: Földbirtokpolitika és szabályozás az európai uniós normákban In: Csák: Agrárjog- a magyar agrárjog fejlődése az Eu keretei között Novotni Press, Miskolc, 2010. 95-101.p., László FODOR: Kishazai földjogi szemle 2010-ből . in.: CSÁK: Az európai földszabályozás aktuális kihívásai Novotni, 2010. 115-131.p., Csilla CSÁK: A termőföldet érintő jogi szabályozás alkotmányos kontrollja In: CSÁK: Az európai földszabályozás aktuális kihívásai Novotni, 2010. 69-81.p., About the Protection of Agricultural Land, see in: Csilla CSÁK: A termőföld védelme In: CSÁK: Környezetjog –előadásvázlatok az általános és különös részi környezeti jogi gondolkodás köréből , Novotni Press 2008. 85-99.p. László FODOR: A termőföld védelméről szóló törvény néhány rendelkezésének elemzése CEDR-MAE Conference 4th April, 2008. Miskolc.

The agricultural land plays an important role in the Hungarian politics. In 1994, after a transitional liberal regulation, the maximum measure of land property was fixed, and the legal entities and foreigners were excluded from the land-property acquisition. This rule stayed up after the accession to the EU, and after a seven-year period, in January of 2011 we got prolongation for the maintenance of the rules until 3 years.¹²

In the practice of the Hungarian Constitutional Court, this limitation was considered to be fair and proportional according to the aims of the domestic agricultural policy, and it was classified maintainable, until the prices of Hungarian land got into identical market position with the competitors' land prices.¹³

Hungarian legal regulation sets up the limitation of the acquisition of land property: a domestic passenger may get land property with a greatness of at most 300 hectares or in 6000 gold crowns (in the additional: AK) value. I mean that a legal regulation prescribes the maximum size of the land property, defined in measure of hectare or gold crown value.¹⁴

But a domestic passenger can not get land property, if the land settles down on a settlement, where the proprietor and his/her close relative's property together exceed the quarter of all land of the settlement or one thousand hectares.

Opposite this, domestic legal entities and unincorporated organisations can not get the property of land – except the Hungarian state, and local governments, and the public funds. Church legal entity can get property based on last will, or on gift or care agreement, donation.

Foreigners and legal entities form foreign country land ownership – according to basic rule - may not get property. The rules concerning the domestic passengers apply to member state citizens, who wishes to settle down in Hungary as an independent agricultural producer, and contracts to live in Hungary continuously for 3 years, and pursues an agricultural activity.

¹² See: SZILÁGYI op. cit 94.p.

¹³ See: CSÁK: 2 op. cit 71.p. Decision 35/1994 (VI.24.) of Constitutional Court

¹⁴ Csilla CSÁK: A termőföld tulajdonszerzés jogi szabályozása In. Csák(ed.) : Agrárjog- a magyar agrárjog fejlődése az EU keretei között Novotni Press Miskolc, 2010 102-108.p.

C/10.

The definition of the agricultural activity was changed with the development of the rural development. Not only the traditional producers' functions of the agriculture, but the social and traditional dimensions came into prominence.¹⁵ The function of agricultural production preserving an environmental state became substantial, in the course of the examination of supports and the value of land.

In the practice of the Hungarian rural development supports, which plays an important role beside good pistil-place conditions, in the protection of the natural environment, in the protection of the endangered species, and in the community environmentalism, the measures limit the land-use of owner or leasehold.¹⁶ The claimable agrarian- and environmental economy support compensates this limitation, which supports higher protection level for producers, who answer the criterions and who assume self-restraint.¹⁷

The leasehold register, which is fixed in a computerised database, is used for confirming the identity of the utilisation of land, and this register consists of a print leasehold sheet, and documents.

That land user is registered, who is a private person using land based on valid ownership, property, or on a legal usufruct, a trustee right, or the user can be a legal entity or a non- legal entity organization too.

It is necessary to register on the leasehold sheet all lands used by leaseholder, all lands in the competent area of the district land registry (in the additional: land registry), and the field and forestry lands standing under cultivation (in the additional: land) – except the forest – in all settlement, in the rising order of the topographical numbers, and in the grouping of inner or outer area.

¹⁵ See: József ÁNGYÁN: Mezőgazdaságunk és a Nemzeti Agrárkörnyezetvédelmi Program In: A Falu 2000. IV.47-56.p.

¹⁶ János Ede SZILÁGYI Az agrárjog dogmatikájának új alapjai.: Útban a természeti erőforrások joga felé? JOGTUDOMÁNYI KÖZLÖNY 3: pp. 112-121. (2007)

¹⁷ See: István OLAJOS: A fenntartható termelés és földhasználat garanciának elősegítése. In: CSÁK(ed.): Agrárjog- a magyar agrárjog fejlődése az Eu keretei között Novotni Press, Miskolc, 2010. 432-436.p.

The leasehold sheet contains relevant data about the land user and the land used by him/her, the name of a land registry guiding the register, the date of the booking into the register, the date of the deletion from the register, and the modification made in the register, the number and the taking date of the decision of entry, deletion and modification, and implies the note concerning the used territory heading, so the measure of the used area gets to indication (in hectare, in accuracy of ten thousand), value in a gold crown (in accuracy of two corporals), a used land use, if the land is divided into parcels, the area of the used parcels, qualitative classes, and the greatness of the area affected with the usage (hectare, m²) and value in gold crown (AK).¹⁸

C/11-12.

In Hungary, the real estate register is the register expanding on the whole area of the country. This system is real estate-, and realfolium based, but is not able to coordinate the land use according to the interests of national and union level.¹⁹

The leasehold system is dual in Hungary. On the one hand the leasehold register, which is a personalfolium based register, records the land-users, who uses more than 1 hectare of agricultural land, and the state pays the top-up supports, according to this register. On the other hand there is the MEPAR system based on SAPS –system. Based on this system, written support claims are compared with prepared space uptakes, photos. The areas of the silviculture imply the fortress substance led by the authorities of forestry. The huge part of the areas standing under natural immunity is in state property, about these the National Landfund, as a state trustee, guides a register.²⁰

Our Civil Code deals with the special rules of the agricultural lease, so it regulates that the leaseholder is entitled to use the particular agricultural territory or to take the benefits, and for this has to pay the lease. How is it different from the lease of things, so what is special for the land:

For the leasing of an agricultural territory, written contract is necessary; a measure may bind the validity of the contract to magisterial approval. The

¹⁸ István OLAJOS: : Földhasználati nyilvántartás In. Csák(ed.) : Agrárjog- a magyar agrárjog fejlődése az EU keretei között Novotni Press Miskolc, 2010 95-98.p.

¹⁹ See: Mihály KURUCZ: Magyar Ingatlan-nyilvántartási jog . Budapest 2007. ELTE JK and József SZALMA: Ingatlan-nyilvántartás- telekkönyvi jog és eljárás. ELTE ÁJK 2005. 9-57.p

²⁰ János Ede SZILÁGYI: MEPAR. Csák(ed.) : Agrárjog- a magyar agrárjog fejlődése az EU keretei között Novotni Press Miskolc, 2010 191-193.p.

sublet of agricultural territory - if legal measure does not take action differently – is invalid. The Act on Land (25.§ of Act LV. of 1994) prescribes –over the written form - that who uses larger, than one hectare land, he/she has to render the contract for the land registry because of its registration within thirty days from the signing of the contract. The Act defines additional confines in connection with the size of the area which can be leased. According to this, a domestic passenger and legal entity, and organizations without legal entity – except the Hungarian state, and the local government – can lease maximum 300 hectares area or area with value of 6000 AK.

Economic company and co-operative can lease maximum 2500 hectares or area with value of 50 000 AK. Foreigners and legal entity from outland can lease maximum 300 hectares or 6000 AK valued land.

The leaseholder of an agricultural territory has to cultivate the land according to its function and has to ensure that the fertility of the land should remain. The leaseholder for that year, in which because the reason of natural disaster or an other extraordinary event, two thirds of the average crop has not grown, fair lease reduction, or a lease concerns remission may demand. The payment of the moderate or released lease can not be demanded in the next years.

The agricultural lease bounded to indeterminate time can be abolished with a 6 month long notice til the end of the financial year. The The notice period of lease of an other thing is just one month.

The landlord can quit the lease contract with an immediate effect, if the leaseholder does not cultivate the land despite of warning, or continues generally such a farming, that jeopardizes the efficiency of production, or the fertility of the land, livestock or the equipment seriously;

With the cessation of the agricultural leasei is necessary to give back the land and other things has in a state that it should be possible to continue the suitable production promptly.²¹

II. part

A./13.

The strategy of the development of agricultural areas – appears in the next national program within the National Country Strategy: Land and Possession

²¹ István OLAJOS: Termőföld hasznóbérlet szabályai In: Csák Csilla (szerk): *Agrárjog- A magyar agrárjog fejlődése az EU keretei között* Novotni Press Miskolc, 2010 128-144.p.

Policy.²² Inside the Land and Possession Policy, the demographical land programm appears as an emphasized strategy, and the young land-owner career model, and the program of Land and Property Redistribution, which forbids and cramps the development of the possessions broking up into fragments, and the possession concentration, the program, which prevents the land use and belongs to landscape elements, is the Leasehold Construction- reorganisational and landscape management program, the Social Landprogram, and the Firm Regulation Program, which imagine the land in a firm construction.

The Regional Complex Rural Development Programs collect the separate development strategies of emphasized areas, and make plans characterising for the landscape and elements.

Within the Development of Local Economy the emphasized aims are: the village-hospitality, the local food supply and processing, the local co-operatives and local money programs. This last program is such an initiation that the city's entrepreneurs accept as a currency, and it is possible to pay by this for the local products on the settlement. (for example: Soproner blue Franc - indicating the famous wine). And the Complex Area Energy Supply Program, which includes a production, process and complex rural development and energetics program. With the support of this program beyond the energy dependence, either the production based on agricultural work, or the production of energy source of seasonal employments, and the local use both have conditions furthering the local workforce's employment.²³

A/14.

In Hungary the development plans and programs are emphasized, and they are concentrated to developed areas. The rural development appears as an emphasized aim here, so the Rural Development is not part of New Hungary Development Plan containing the regional development too, but an independent

²² János Ede SZILÁGYI: A támogatások rendszere az agráriumban és a vidékfejlesztésben. In: Csák Csilla (ed.:) Agrárjog: A magyar agrárjog fejlődése az EU keretei között. Miskolc: Novotni Press, 2010. pp. 355-371.

²³ About the program see more: National Rural Strategy. In: <http://videkstrategia.kormany.hu/index>

rural development plan was born for the development of the rural areas.²⁴ For the period of 2007-2013, the payments for rural development happen based on this accepted rural development plan. Inside this period, the new government was formed in 2010, and it reshaped the political aims of the rural development, and rearranges the supports according to these aims between the axes of the rural development plan. The appearance of new concept of support orders are expected for the second half of the year 2011.²⁵

A/15.

On areas inhabited rarely and struggling disadvantages (unemployment, embarrassed infrastructure, unqualified population) the orders, decrees get participant in special benefit. The applicant can execute developments with fewer private resources on the areas like this, the project may expand on overcoming infrastructural disadvantages, and the applicant may ask advance for later financed projects.²⁶

A/16.

The agrarian-environmental protection programs are used for the insurance of the sustainability, where special regulations are attached to the production with the intensity equal to the conditions of the target area, and the producer may obtain a right for additional supports.

B/17.

Particular farming activity can be practised in natural conservation areas. On non-defended areas the important task of the environmentalism is that – through the collaborating of forming and executing of agricultural-environmentalism – to motivate the smallholders for the joining to target

²⁴ János Ede SZILÁGYI: Bevezető az Európai Unió gazdasági és társadalmi kohézió politikájába. In: Olajos István (ed.:.) A gazdasági és társadalmi kohézió politikája az Európai Unióban és Magyarországon. Miskolc: Novotni Press, 2009. pp. 7-42.

²⁵ About the Connection of Rural Development and Regional Development Plans. See: László KOLAJ: Új Széchenyi Terv Lecture . In: University of Miskolc, 2011. március 12.

²⁶ See: KOLAJ op. cit

programs with natural conservation aims or, programs with natural conservation effects.²⁷

On areas affected by NATURA 2000 system – which covers cca. 21% of Hungary – based on the Edict 269/2007., and the tightly related Agricultural Ministerial Decree of 128/2007, on the lawn areas in the economical year of 2007/2008, compensatory payments were demandable for the adherence of the regulations of the land use of NATURA 2000 areas.

Farming on the protected natural areas is defined by the measure serving the announcement of the protection of nature conservation, the natural conservation service plan, and the magisterial decisions based on the effective measures. The special case of farming on protected natural areas is the treatment of areas with natural conservation purpose, which areas are owned by state or they are managed by the national park directorates' property management. This happens one third part of the protected natural areas.

One part of these areas is among „sanctuary areas”, so on these areas only the most necessary interventions can be done, which are necessary for the maintenance of natural state, for example: the suppression of the invading races, or the influence of unfavorable succession processes.

Among the remaining areas, on which the natural conservation interests demand technical activity with increased attention, the national park directorates do the technical tasks, while on more than half of the state-owned protected natural areas, the maintenance of protected natural values happens with the cancellation of smallholders, on the grounds of social contracts with natural conservation aim.

On other areas standing under protection of nature conservation, by using the principle of the leasehold pyramid, the proprietor of a natural area defended strongly may not pursue an agricultural activity. The proprietor of an area saved less, because of the conservation of the natural conditions of the area, may produce, but the farmers living on the borders of natural conservation areas, only extensive or bioproducing is authorised free from chemicals, while on areas under not natural protection, the extensive production is also possible. The supports change according to this - there the largest, where the producer's private autonomy is limited mostly. I mean that if a territory stands under

²⁷ Gergely HORVÁTH: Az agrár-környezetvédelem speciális területei In. Jog, állam, politika 2/2009.80-101p.

agricultural cultivation, it can be an environment protection core zone, a buffer zone, or a transitional zone or agricultural zone.²⁸

B. 18.

The Act on the nature conservation implies among the aims of the act, that it is necessary to ensure during the cultivation and development of natural areas the protection of the character of the landscape, the preservation of the aesthetic, natural values, and the protection of the landscapes for typical natural systems and unique landscape values taking into account the historically formed nature-friendly utilisation methods.

For this we have to:

a) provide the insertion of environmental values in the course of the outer placement of buildings, linear institutions, equipments values, with the functional and aesthetic phasing of artificial landscape;

b) provide the statement of new functions of placed buildings, buildings, linear institutions, and equipments, or in absence of this, to provide their cessation, their demolition, and the direction of the affected area conforming to the character of the landscape,

c) during the the settlement-, the country planning and development, particularly the area use, the track formation, building operations and usage it is necessary to attend to the conservation of natural values and systems, the landscape conditions and unique landscape values;

d) the alteration of land use, the utilisation with an other aim is possible only with the observance of the character of the landscape, the construction, the historically developed nature-friendly conditions and the natural values. Great part of Hungary is rural area.

The local rural development plans, strategies ascribe an emphasized role to the villages' cultural values and the tourism, so the preservation of the rural lifestyle, the a village picture, the natural, cultural and renewed is the primary aim.

²⁸ István OLAJOS: Az Európai Unió földértékelési rendszerei In: Csák (szerk.:) Agrárjog- a magyar agrárjog fejlődése az Eu keretei között Novotni Press, Miskolc, 188.p.

B. 19.

One of the Union's capital basic principles prevails in the Hungarian legislation: it is necessary to insure the economy and ecological balance in the usage of area according to the principle of the „sustainable development”, to reckon with the natural values, protected natural areas, beside the priority of the environmentalism. It is necessary to aim for the alleviation of the regional differences of the development inside the area in the course of developments.

It is necessary to execute the developments in such a way that they should contribute correction for the constant population's living conditions (for the standard of job opportunities, the supply, for the quality of the environment). The developments of tourism and natural conservation, serve the interests of population of settlements, with attention to the conservation of the natural values.²⁹

B.20.

In the area of the nature conservation many limiting rules are formulated in acts, for example: it is necessary to be with attention in the course of the utilisation of the natural areas to the type of the habitat, the richness of races living in active organisms, the maintenance of the biological diversity.³⁰

During the utilisation of agricultural land, the usage of areas inappropriate for utilization, the making and execution of melioration plans, the continuation of other agricultural activities, the water management and the water direction, it is necessary to preserve natural and water surfaces, reeds, other aquatic habitats, and the natural stock of plants of adverse areas with a pistil place condition for the agricultural production.³¹

On natural areas towards the maintenance of natural values and biological diversity, the application of chemical agents influencing the fertility of single

²⁹ Nóra JAKAB: Gondolatok a fenntartható fejlődés és a foglalkoztatás kapcsolatáról, in: *Studia Iurisprudentiae Doctorandum Miskolciensium, Miskolci Doktoranduszok jogtudományi tanulmányai* 8., Miskolc, Bíbor Press, 2007, 149-168. p.

³⁰ Csilla CSÁK: *Környezetjog* I. kötet Novotni Kiadó Miskolc2008. 156-171.p. (see more: CSÁK : *Környezetjog*) and Tamás BARANYI: *Természetvédelem joga* In. FODOR László: *Környezetjog* Lícium Art Kiadó Debrecen 2006 220-248.p.

³¹ CSÁK: *Környezetjog* 87-88.p.

pesticides - in conformity with separate measure - the natural conservation authority may initiate the limitation or prohibition.

The forest is one of the most complex natural and ecological system, which is – because of its effects on the environment - one of the fundamental conditions of existence of the healthy human life. The forest helps to preserve the race richness of the living world, defines it and makes the character of the landscape more beautiful. It produces raw material and food as a renewable natural resource beyond its defensive effects constituting an enormous but natural economic value.³²

According to the Act on forest and the protection of forest: the function of forest can be:

- protection,
- economical,
- health, social, tourist,
- educational and research purpose.

The forest, which has protectional purpose can be : protected or it can have protective role. In this type of forest economical activity can be practised only with special rules.

That forest is protected, that is under shelter of protection of nature conservation because of its natural values. Those forests have protective role, which ensure the protection of vulnerable areas (for example: erosive valleys, floodplains) or human establishments (roads, railroads, dams, agricultural-inhabitant areas etc). In the forest with an economic function, the primary aim is the production and utilization of the sylvan products.

The expansion of the natural and normal forests decreases continuously, the planting of trees happens with quenched trees. The afforestation - if the place conditions make it possible – happens primarily with indigenous tree species, in natural mixture proportion, on a nature-friendly rate.

B. 21.

We favour the conservation of the protected natural values and areas with the assistance of a state support, with the insurance of tax relief, and with and a credit system supporting the nature-friendly farming.

³² Géza TÖRÖK: Az erdő használatának szabályai In: Csák Csila: Agrárjog- A magyar agrárjog fejlődése az EU keretei között Novotni Press Miskolc, 2010 143-147.p.

It is necessary to provide a support especially:

- a) for the nature-friendly farming,
- b) for habitat reconstruction, configuration of new habitat, except this happens as a sanction,

On the protected natural areas because of the ordered farming limitation in natural conservation interest, or in case of prohibition or on account of the regulation of considerable alteration of production construction, it is necessary to compensate the damage of the proprietor – or if the proprietor passes through the usage of the land – the legal user.

But it does not originate a compensation claim however if:

- a) the limitation or prohibition is prescribed legally in protected natural area because of the prevention and arrest of the natural damage;
- b) if the damage is caused by the illicit activity of the proprietor or user;
- c) if the damage returns from an other source;
- d) if the additional expenses originating from the limitation and prohibition or their regulation of an obligation of the proprietor or user return from the resorted supports.

In an area is temporarily protected, and because of its evidence the area does not become a permanently conservation area, the proprietor or the user can claim the effective expense originating from the temporary preservation.

If permanently preservation pursues the temporary preservation, compensation goes regularly to the whole time.

The natural conservation authority decides about the legal ground of the compensation claim and its total sum.

The proprietor or the legal user who assume the maintenance of the natural values and the correction of the natural state, may contract a **legal service agreement** expanding on the questions of the compensation and supports with a directorate.

C./22.

In Hungary for the rural development the most important support is within the New Hungary Rural Development Plan through the EMVA.³³ This is a complex program, which is similar to EMVA, and it realises the development of an agricultural economy through 4 axes, and it realises the agricultural-environmental economy, the diversification of the rural areas, and the complex development of the rural areas. The Life program is integrated into this area, considering the effects of rural development, with parts of the nature and the biodiversity. From 2011, the meaning of the rural development changed in the Hungarian governmental structure and the whole interpreted regulation of agriculture, and the environment regulation belongs to it. Compared to rural development supports regulated by administrative decision typically, the financing system of Life +program can be considered as part of rural development, which requires complex development and financial plans.

C/23-24

Ministerial decrees about supports concerning the designate areas, complement the basic regulation. In consideration of the character of the areas, the Agricultural and Rural Development Ministry and Ministry of Environmental Protection and Water Management created leasehold rules.³⁴

According to the aim of Natura 2000³⁵, it is established for the keeping of community charactered bird and plant species, and their habitat in natural habit.³⁶ The maintenance of areas of Natura 2000 is possible by natural conservation service plan, other (environmental protection) plans, and by

³³ János Ede SZILÁGYI: Agrár- és vidékfejlesztési támogatások. In: Szilágyi János Ede (szerk.) Agrárjogi gyakorlat: Fogalmak és jogesetek. Miskolc: Novotni Alapítvány, 2009. pp. 64-75.

³⁴ About the operate Legal Regulations: www.natura2000.hu/jogszabalyok

³⁵ János Ede SZILÁGYI: Környezetvédelem az európai uniós jogban. In: Szilágyi János Ede (szerk.) Környezetjog: Tanulmányok a környezetjogi gondolkodás köréből. Miskolc: Novotni Alapítvány, 2010. pp. 51-72.

³⁶ The Order of 275/2004. (X.8.) on the European Community nature conversation areas- the NATURA 2000 Order.§

NATURA 2000 plan.³⁷ It is necessary to mark NATURA 2000 areas, and to indicate them separately in the MEPAR and real estate register too.

In NATURA 2000 areas, the control of the activity of land-user is the task of environmental protection, natural conservation and water management inspectorate (in addition: Green Authority). They may limit the activity not being linked to the character of the area, then they may prohibit it. If damage occurs due to the activity, they obligate to restore the original state. In NATURA 2000 areas, because of the expansion of the substance of the protected species, leasehold activities practised without a permit can be forbidden too.

The Green Authority's permit is necessary to the breaking-up of lawn, to its restoration, afforestation, the organization of sport exceeding 100 person or a cultural event.³⁸

To all activities, which does not serve the natural conservation treatment of NATURA 2000 areas, it is necessary to examine the effects for the NATURA 2000 protected species, and for the ecosystem. If the effect on the NATURA 2000 areas is considerable, it is necessary to prepare effect assessment process. It is necessary to conduct the assessment process or environmental examination in an impact assessment, or in uniform environment usage procedure, depending that the practiced activity belongs to what kind of procedure. It is possible to accept the plan, if it does not cause a considerable environmental effect to the living world of the area, and is not conflicting the aims of designation. This categorical decision can be allowed according to the public interest of the investment. It is necessary to seek, that the original aims of the designation should not injure. In this case for the investment realising compensator measures may be prescribed.³⁹

For NATURA 2000 areas from 2007 36€/ha compensatory land based support can be given,⁴⁰ if on the area only horned cattle, sheep horse, donkey, or a buffalo is grazed, and nutrient supply originates from the animals grazing there, and 5% of the area is not possible to utilize with grazing, for the aim of the

³⁷ 5. § of NATURA 2000 Order

³⁸ loc. cit. 8-9§§

³⁹ Decree of 269/2007 (X.18) about the land-use measures of the reserve of lawn

⁴⁰ loc cit 10§ and 10/A

maintenance of the species, the navigation of internal water and watering is prohibited. From 31th October until 23rd April, the grazing and clearing of cane is possible only by the green authority's permit. The mowing of the areas is possible by the use of beast-alarm. The only activity with a plant protection character is possible against the invasion charactered plants, but the permit of the Green Authority is also necessary.⁴¹

Besides this, on areas of NATURA 2000, for the conservation of the landscape elements, 100% measured, maximum 300€/ 100 metre support with subsequent financing is extensible for hedge setup, lawn setup.⁴² Most part of NATURA 2000 areas was assigned as ploughman, forest, lawn, . The union approved the designation in 2006, and it was confirmed in 2010 to single National Parks with relatedly topographical number.

C/25.-28.

The Act XXVII. of 2009 implies the conditions of forest fire, and it's reconstruction.⁴³ The most important parts of the Act are: about the forest, the land use and a natural utilisation, the protection of the forest and the chapters about the silviculture. About the protection of the forest fire we can find legal rules in the chapter of protection of forest. It is the task of the forestry to provide the conditions of protection against fire.⁴⁴

In a forest to light and maintenance fire - with the exception of the places designated for this aim - only the forestry, in its deficiency, in the possession of written permit of the proprietor of the forest is possible. The burning of timber left in forest is allowed only in enable areas or in designated areas, if the fire does not jeopardize the forest around the area, and the living world of areas apart from forest, and natural formations and other art objects.

The forestry has to establish, develop and designate in the area of the forest park constant and safe places for lighting fire for tourists. In these places, with the observing of anti-burn provisions, anyone can light fire.

The forestry has to announce the lime kiln established in the forest, and the charcoal burner for the forestry and anti-burn authority.

⁴¹ Ministerial Decree of 128/2007. (X.31.) The Detailed Measures of Compensational Supports for the Economy in areas of lawn.

⁴² Decree of 33/2008. (III.27) about the Supports for non-Producing Agricultural Investments.3.§

⁴³ About the forest and forestry.

⁴⁴ 64§ of Act.

It is prohibited to light fire in forest, and in two hundred metre districts of outer areas in the period of the increased fire hazard. It is prohibited to place prohibited objects causing fire directly or indirectly in the forest.⁴⁵ Who lights the fire, has to provide about its keeping and about its safe quench – before leaving the area.

Who observes forest fire or a fire hazard and can not extinguish or prevent it, he/she has to inform the fire brigade, the authority of forestry promptly.⁴⁶

In case of increased fire hazard the minister in a decision - with the negotiation of the minister responsible for defence against disaster – can order general ban for lighting fire for a period to the whole area of country, or in particular areas around forest, and on an area, within two hundred metres.

It is necessary to announce the decision about the fire ban in the website of the authority of forestry and of the minister, and it is necessary to announce it in two national dailies, the public television and a radio. The date of the publication of decision is the date of first publication.

For smaller areas, such as county, village, in case of increased fire hazard - in a justified case, for temporary time – the county directorate of catastrophe management, in the area of the capital city – with the agreement of the Capital Fire-headquarters the authority of forestry may command of fire lighting prohibition. It is also necessary to announce the decision about the fire ban in the website of the authority of forestry and of the minister, and it is necessary to announce it in two national dailies, the public television and a radio. The date of the publication of decision is the date of first publication.

In case of ordering of the fire ban, the authority of forestry may limit or prohibit entering into the forest and the residence until its dissolution. The ordering of fire lighting and visiting ban, can be bound to the value of a meteorological index.⁴⁷

A municipal ministerial order published in 2008 disposes on the protection of the forests against fire.⁴⁸ The agricultural management office enumerates the forests in 3 fire hazard categories. To the combustible areas it is necessary to compile a defensive plan.⁴⁹

⁴⁵ 65§ of Act

⁴⁶ 66§ of Act

⁴⁷ 67§ of Act

⁴⁸ Order 4/2008. (VIII. 1.) ÖM rendelet about the Protection against forest fire.

⁴⁹ 1-3 § of Order

Along the two metres, near agricultural areas it is necessary to develop fire strips in 3 metres of broadband, it is necessary to place the boards signaling the rules concerning the ignition of the sylvan fire in motorist rests.⁵⁰

Combustible forest firm activity (cutting area waste incineration) only in the possession of a natural conservation permit is allowed, only with the management of person trained adequately can be made. In case of a fire hazard and in the period of fire ban, the forestry has to place a board warning about the general fire ban on places at the entrance of the obligatory roads driving into the forest, and to check the keeping of the provisions concerning the fire ban continuously.

To endangered places it is necessary to settle anti-burn guards (fire alarm service), who are suitable for the mark of the fire. To quench fire it is necessary to provide suitable working group, equipment and vehicle.⁵¹

The forestry has to stand at least 30 men to quench fire, and has to provide them with suitable mechanical devices, and to operate a forest fire alarm system.

To the restoration caused by fire harms, with other forest harm together, rural development support can be claimed. The support expands the area of preparation, damaged stands of trees preceding the forest renovation producing, the first replanting, replacement, and offspring.⁵²

Other additional support can be given for the foundation of ridges; or for the foundation of a berm with slant over 10 degrees; or for the foundation of dams for twigs or soil with slant over 15 degrees. It is necessary to attach the anti-burn authority's meaning about the measure of the damage, the place of the establishments, and plans concerning the accurate functions, and the meaning of the authority of forestry about the professional implementation.⁵³

The measure of the support depends on the trees forming the damaged forest, the measure of damage, the micro-region classification of the area, the number of installed trees, the indigenous, the degree of natural position and immunity.

⁵⁰ 6-8§ of Order about protection against fire.

⁵¹ 12.§

⁵² Order of 32/2008. (III. 27.) about vis maior support

⁵³ vis maior support order: 7§

In Hungary in questions of natural conservation the local local governments have an independent order creating jurisdiction, which expands on utilizing the outer areas. In these questions the measure hierarchy is inapplicable, so severer regulation can be made in local level.⁵⁴

The civil participation is important, so if an environment protection commission is established in a settlement, where civil organisations of environment protection are involved in the function, 30 % of environmental fine is part of local taxes.⁵⁵

⁵⁴ See László FODOR: A környezetvédelmi szabályozás jogforrási rendszere In. : FODOR – BARANYI –TÓTH : Környezetjog Licium Art Ltd. Debrecen 2006 35.p. 264.o.

⁵⁵László FODOR: A környezetvédelem gazdasági eszközei 67-68.p. p In. Fodor : Környezetjogi előadások Bíbor Press 2003 217.p.