

### Commission 3

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***Significant current developments in international rural law, in the EU as well as in states and regions<sup>1</sup>***

**Hungary**

#### I. Regulation and use of new technologies, genetic modification

The regulation of GM-technologies is on the dividing line of Hungarian environmental law and agricultural law. There were long debates about its applicability, although in parallel, in the domestic political life another conception has been taking shape.

At first, not long after Hungary joined the European Union, this question was raised only in connection with the cultivation of plants from GM-seeds. Answering to this demand, the Hungarian Parliament adopted its No. 53/2006 (XI.29.) decision with an overwhelming majority of the MPs from all parties (that is especially rare in Hungary!) as they considered that maintaining the GMO-free feature of the country means an increasing competitive advantage on the markets for Hungary, and, furthermore, significantly improves our environmental and food security.<sup>2</sup> In our opinion, the importance of this parliamentary decision is that the Hungarian legislator recognized early the economic opportunities for GMO-free products; in essence, that GMO-free food could be sold at a better price on the market (e.g. in the EU) where it is a value for the consumers.

In 2011, the legislator also ruled in the Fundamental Law that Hungary shall facilitate the enforcement of the right to physical and mental health by – beside many other ways – ascertaining that the agricultural sector is free of all genetically modified organisms. Júlia T. Kovács drew attention to that the first proposal of the Fundamental Law<sup>3</sup> did not contain the commitment on GMO-free cultivation, it appeared only in an amendment.<sup>4</sup> Originally, the amendment contained the conception of GMO-free healthy food, however, as it could have infringed EU Law the text was changed to GMO-free agriculture.<sup>5</sup>

However, it could be ascertained that this rule is not a directly predominant ban (more likely an instruction to orient the legislators of the state). At first, this rule was referred to mostly in connection with restrictions on cultivation of GM-plants by the Hungarian legislator (this is a narrow interpretation). Thus, this narrow interpretation does not exclude that imported GM-products (e.g. food) could be purchased by Hungarian consumers. However, for about two years, the decision-makers interpret other questions as well as falling under the category of GMO-free agriculture (beside the cultivation of GM-plants), e.g. the intention to establish the conditions of a GMO-free food production in Hungary. In our opinion, the

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<sup>1</sup> The described study was carried out as part of the EFOP-3.6.1-16-00011 “Younger and Renewing University – Innovative Knowledge City – institutional development of the University of Miskolc aiming at intelligent specialisation” project implemented in the framework of the Szechenyi 2020 program. The realization of this project is supported by the European Union, co-financed by the European Social Fund.

<sup>2</sup> According to the Parliamentary commissioner for future generations, one of the highest genetic engineering related problems is that its long term effects are unknown; JNO opinion NO. 258/2011, 7. Arguments beside and against GMO are present in the Hungarian scientific life as well: Study against genetic engineering: Darvas – Székács (edit.) 2011. Study beside genetic engineering: Balázs et al (edit.): 2011.

<sup>3</sup> Proposal submitted under No. T/2627.

<sup>4</sup> Amending motion submitted under No. T/2627/157

<sup>5</sup> See further T. Kovács Júlia: Effects of GMO-free Fundamental Law on agriculture – with special emphasis of the resumed sovereignty of the EU Member States and the TTIP. In: Szalma József (edit.): *A magyar tudomány napja a Délvidéken* (Day of the Hungarian science in South) 2014, Újvidék, VMTT, 2015, 308-309.

category of GMO-free agriculture gives such a wide framework of interpretation that even this latter, wide interpretation could fall under this category.<sup>6</sup>

The conception was carried into effect in five steps:

1. Preventing the cultivation of GMOs all over the EU by the safeguard clause like applied in relation to the MON 810 corn, the Amflora-potato and other related steps.
2. Forming of the strict coexistence rules.
3. Establishing the Alps-Adriatic GMO-free zone.
4. Reconsideration of liability rules on genetic engineering.<sup>7</sup>
5. Supporting of EU level regulation on GMO-free areas.

The particularities of FM decree 61/2016 (IX.15.) on labelling GMO-free food and feedstuffs - with regard to the regulation of other countries<sup>8</sup> - can be summarized as the following.<sup>9</sup>

(a) The Hungarian regulation – similar to the comparable regulation of several EU Member States – could be considered as a voluntary system in the effect that if a product is GMO-free, marking this fact on the product is not obligatory, however, if somebody wants to mark the GMO-free feature, it could be only done according to the provisions of FM decree 61/2016. Relating to the Hungarian decree, the question arises that „since the EU regulation [about labelling GMO-content] prescribes as mandatory that GMO-content must be labelled on the product, why is it needed to regulate the labelling of GMO-free production at national level. The answer is the following: the union labelling system declares as many exceptions in connection with the labelling of GMO-content, as the Union labelling should rather be called as a regulation of ‘obligatory marking of a significant quantity of GMO-content’. So according to the EU regulation, marking of a lower quantity GMO-content on the product is not obligatory. With regard to all of that, the reason why the national supplementary regulations are needed is that the obligatory labelling system of the EU contains too many exceptions.”<sup>10</sup>

(b) The Hungarian regulation is close to the French regulation on GMO-free cultivation, however, but took a lot of inspiration from the Austrian system as well.

(c) Foods (fish, meat, milk, egg, apiarian products, plant origin products) and feeds also fall under the scope of the law. GMO-free label shall not be applied in case of egg and meat of wild, (from the aspect of feed) non-traceable animals, and caught, wild fishes. Basically, food or feed aggregates, technology excipients and enzymes made from GMO shall not been used during the production of food or feedstuff marked with GMO-free label either.

(d) According to the Hungarian decree, a product is allowed to contain a maximum of 0,1 percent of a GMO (which is what could be measured based on the current level of

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<sup>6</sup> See its interpretation: Szilágyi Ede - Raisz Anikó - Kocsis Bianka: New dimensions of the Hungarian agricultural law in respect of food sovereignty. In: <http://www.doi.org/10.21029/JAEL.2017.22.160> 169, 190 (Szilágyi-Raisz-Kocsis 2017)

<sup>7</sup> See more: Szilágyi-Raisz-Kocsis 2017. op. cit. 170-172

<sup>8</sup> European Commission: State of play in the EU on GM-free food labelling schemes and assessment of the need for possible harmonization – Final report, written by ICF GHK, October 2013, free access; European Commission: State of play in the EU on GM-free food labelling schemes and assessment of the need for possible harmonization – Case studies, written by ICF GHK, October 2013, free access. See more: Ursula Bittner: Significance of GMO-free labelling for economic stakeholders, 8 May 2015, free access

<sup>9</sup> See details: Szilágyi Ede - Tóth Enikő: A GMO-mentes mezőgazdaság megteremtésének újabb jogi eszköze: a GMO-mentes termékek jelölése Magyarországon *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Tomus XXXV (2017), 479–499 (Szilágyi-Tóth 2017)

<sup>10</sup> See more: Szilágyi-Tóth 2017

technology) which has authorisation for placing on the market in the EU and its presence in food or feed is unintentional or technically unavoidable.

(e) Fish, meat, milk or egg, and foods containing these components could be regarded as GMO-free only if the feed given to the animal meets the requirements on GMO-free feeds of the decree. If the feeding of the animal did not meet these provisions, products originated from it could be labelled as GMO-free only when a certain conversion time had passed. The Hungarian decree contains detailed rules on the conversion time. Practical implementation of these rules is promoted by the fact that in the framework of the Common Agricultural Policy, the Hungarian protein programs is supported which promotes the cultivation of protein crops with compensation, boosting the national GMO-free cultivation of soy.

(f) According to the Hungarian regulation, apiculture products can be labelled as GMO-free if the following requirements are met: GMO-free plants generate the nectar and pollinic resources in the 5,5 km area of the beehive, and, furthermore, the feed of the bees does not contain GMO or component made from GMO. With regard to the differences between the regulations on GMO-free labelling in the Member States, we also promote to adopt an EU regulation (directive) in the single market of the EU in order to accomplish of a certain level of unification.<sup>11</sup>

A recent development is that Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods came into effect. The regulation's most important innovations are the following ones: The requirements of the assessment of security risks shall be clearly determined. It is going to be the task of EFSA on the level of European Union. Who intends to make a novel food authorise, the application shall be submitted directly to the European Commission. After the expert's report of EFSA, in the case of a favourable decision, the Commission submits its up-to-date draft of the implementing act containing the novel food to the Standing Committee on Plants, Animals, Food and Feed. There are no simplified procedures, traditional food from third countries is also included in the scope of the regulation. Food from cloned animals are also considered as novel food. Considering this regulation, a legal act is expected to be created.<sup>12</sup>

In view of the effect of the decision on genome editing on future generations Bándi Gyula as the PCFG has made an official statement.

He said that "until there is professional consensus on plants derived from genome editing – with the use of the precautionary principle – in the perspective of legislation the scope of the GM regulation covers these techniques too..." As a support of his summary statement the PCFG has made the following proclamation regarding the new technology itself: "The use of genetic and biotechnological techniques ... can set a problem primarily in the fields of agriculture and food industry. In case of first generation GM plants which have foreign species' genes inserted into them ... the use of substantial equivalence is obviously wrong... In theory the case is different in case of new types of genome editing techniques where foreign genes are injected into the gene pool of the plant only temporarily and the result is the mere specific modification of the gene. As a result of this new wave of research and development process the question of legal regulation arose. However, this can under no circumstances mean the allowance of the cultivation of these plants without further research."

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<sup>11</sup> See details: Szilágyi-Tóth 2017

<sup>12</sup> Harmócz Dorina: Az agrár-biotechnológia jogi szabályozásának kihívásai a klónozás és az új nemesítése technikák tükrében: különös figyelemmel az Európai Unió és a magyar Alkotmánybíróság elővigyázatosság elvére (Challenges of legal regulation of agrarian biotechnology in the light of cloning and new plant breeding techniques: paying special attention to the precautionary principle of European Union and Hungarian Constitutional Court) TDK dolgozat, Miskolc, 2018. 24.

Following this the PCFG has also mentioned the Fundamental Law's conception of an "agriculture free of genetically modified organisms". He stated that: "This is a mandatory provision derived from the Fundamental Law. Its content can only be defined by science and the technical agreement of professionals working with genetically modified organisms... The question, judgement and content of genetic modification is fundamentally not a legal question, however the consequences do need legal interpretation."<sup>13</sup>

For the interest of the maintenance of GMO-free agriculture, the amendments of our Criminal Code and the Act on food chain and its official supervision are expected.

The Government...

1. agrees that GMO-free agricultural production should continue to be a priority and that all possible measures should be taken to reduce the dependence on GM soy in the food chain;
2. supports the suppression of food crime and agrees to extend criminal law as an indirect tool to strengthen food chain security, including the regulation of counterfeiting of a food chain product (food, pesticides subject to authorisation, yield enhancers, veterinary health care products)
3. calls on the Minister of Justice, with the involvement of the Minister of Agriculture, to ensure that criminal law regulation is drafted.<sup>14 15</sup>

## II. Livestock and livestock health

On 8th of June 2016 the European Parliament and the Council adopted the so-called Animal Breeding Regulation. Hungary accepted statutory provisions necessary for the implementation of this Regulation in the Act LVI of 2019 on the statutory provisions necessary for the regulation of animal husbandry, which came into force on 1st of August 2019. Although the Animal Breeding Regulation of EU is a lengthy legislative act, the mentioned Hungarian act has only 11 sections about the topic. It means that there are numerous governmental and ministerial decrees under the level of statutes in the interest of the Act's implementation.

The previous Hungarian regulation was different, because the Act CXIV of 1993 on animal husbandry consisted of a much more extensive regulation with its 49 sections. However, the detailed provisions were also regulated in ministerial decrees in the time of the previous animal husbandry act. Section 49 of Act CXIV of 1993 entitled the minister to regulate 19 topics in connection with animal husbandry. Besides this, the Government was also designated to regulate 3 other topics by decrees. This regulatory solution was continued

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<sup>13</sup> See more: Harnócz Dorina: New plant breeding techniques and genetic engineering: legal approach. In: [www.doi.org/10.21029/JAEL.2018.25.81](http://www.doi.org/10.21029/JAEL.2018.25.81) ; 91; 105

<sup>14</sup> Government Regulation No. 1725/2018. (XII. 18.) on establishing an environment guaranteeing Hungary's being GMO-free and its food safety [1725/2018. (XII. 18.) Korm. határozat Magyarország GMO-mentességét és élelmiszerbiztonságát garantáló környezet kialakításáról]

<sup>15</sup> See also: Szilágyi János Ede: A zöld géntechnológiai szabályozás fejlődésének egyes aktuális kérdéseiről. *Miskolci Jogi Szemle: A Miskolci Egyetem Állam- és Jogtudományi Karának Folyóirata* 6 : 2 pp. 36-54. (2011); Szilágyi János Ede: A géntechnológia jogi szabályozása. In: Nagy Zoltán, Olajos István, Raisz Anikó, Szilágyi János Ede - Szilágyi János Ede (edit.) *Környezetjog II.: Tanulmányok a környezetjogi gondolkodás köréből*, Miskolc, Novotni Alapítvány, (2010) pp. 105-128.

by the new animal husbandry act, but a shifting of accent can be experienced: the Government has authorization for 10 topics and the minister has it for only 5 topics. According to the previous act the designation of the breeding authority, the designation of the administrative body managing the register and the establishment of data management provisions for the register were the tasks of the Government. According to the new act, more regulatory topics were given to the Government, such as the following ones:

1. specific amount of animal husbandry fine and the order of its imposition;
2. conditions for the approval of a breeding organization and the conditions for the approval of a breeding program;
3. detailed rules for performance testing and evaluation of breeding animals;
4. rules for the keeping of breeding books and the issuing of zootechnical certificates, as well as the content of breeding books and flock-books;
5. rules for stations of artificial inseminations, stations of embryo transfers, stations of poultry and fish hatching, settlements of queen-bee breeding, as well as semen storage centres;
6. order of genetic maintenance of indigenous and endangered animal species and Hungarian dog breeds;<sup>16</sup>
7. conditions of import and export of breeding animals and germinal products.

The above-mentioned 2., 3., 4., 5. and 6. topic belonged exclusively to the minister in the previous times, but the new act introduced the level of general rules of the Government above the ministerial decrees' detailed provisions.

In general, it can be clearly stated that after our accession to the EU on 1 May 2004, all the amended provisions of the Act CXIV of 1993 and the new Act LVI of 2019 emphasize the objective of the Hungarian legislator to comply as fully as possible with the provisions of the Union.

As I mentioned, our new act consists of only the most important provisions, detailing is introduced by the governmental decrees on the second level and the ministerial decrees on the third level, so a four-level system of regulation can be determined:

1. The law of European Union as a general frame to national legislation.
2. Act LVI of 2019 on the statutory provisions necessary for the regulation of animal husbandry that functions as a framework act.
3. Governmental decrees.
4. Decrees of the Agrarian minister.

It is important to emphasize that the development of the 3rd and 4th regulatory levels is in process with respect to the new Hungarian act. As a consequence of this, it is worth introducing the topics regulated in the Act LVI of 2019.

Section 1 of the Act contains the general principles. Considering the traditional Hungarian animal husbandry, its Subsection 1 declares that the preservation and maintenance of indigenous and endangered animal species is a state responsibility. It is enough to think of

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<sup>16</sup> See more: Olajos István: The special asset management right of nature conservation areas, the principal of the prohibition of regression and the conflict with the ownership right in connection with the management of state-owned areas. In: [www.doi.org/10.21029/JAEL.2018.25.157](http://www.doi.org/10.21029/JAEL.2018.25.157) 160-162; Sulyok Katalin: Az Alkotmánybíróság előzetes normakontroll döntése a nemzeti park igazgatóságok vagyongazdálkodói jogkörének csorbítása tárgyában. In: *JEMA* 2015/2, 19.; Csák Csilla: Constitutional issues of land transactions regulation. In: [www.doi.org/10.21029/JAEL.2018.24.5](http://www.doi.org/10.21029/JAEL.2018.24.5) 5-7.

the famous Hungarian Grey, which is an ancient breed of domestic beef cattle. Subsection 2 emphasizes that the production of genetically modified animals is prohibited for agricultural purposes. This is in line with Hungary's commitment to GMO-free agriculture, but it should be stressed that the import of GM feed is not yet prohibited. Subsection 3 predicates that animal cloning is forbidden, but statute may make an exception. Section 2 and 3 comprise rules for the approving of breeding organizations and breeding programs, in addition, it is declared that breeding books, flock-books and zootechnical certificates are considered authentic instruments. The procedural deadlines remain unchanged, so, as in the previous animal husbandry act, the procedure for approving a breeding organization and approving a breeding program is 150 days at longest, and a breeding program modification procedure lasts for a maximum of 90 days. Section 4 stipulates the inclusion of additional data on natural persons in the register of the breeding authority. Section 5 contains special rules for indigenous and endangered animal species, preventing the majority of the herd from being eradicated in the event of an epidemic situation, thereby reducing the remaining population to dangerously low levels for inbreeding. Section 6-8 list the possible measures of the breeding authority, such as imposing animal husbandry fines, suspending or withdrawing the approval of a breeding program or even prohibiting the use of an animal in breeding.

All in all, it can be said that our new animal husbandry act aims to meet the EU expectations, it provides a solid foundation for modern legal regulation and it liberalizes the market. From the entry into force, several breeding organizations may be engaged in the breeding of the same breed. However, special attention is also given to the protection of indigenous animals, thus creating harmony between EU and Hungarian relations. We can also say that Hungarian regulation evolves with respect to the EU regulation, with the determination according to Hungarian traditions. This is also expressed in the reasoning of the new act, which declares the following: „Our genetic resources with agricultural aim and the aim of feeding, our domestic livestock species and breeds are our national heritage of accentuated importance, public treasures, parts of our national identity and symbols of Hungary. Finding, collecting, preserving, maintaining and utilizing our genetic resources is an important strategic issue of feeding and food security, as we can reduce our vulnerability to foreign germinal products and we can establish the independence of Hungarian agriculture. The protection of genetic resources is a major state responsibility worldwide, and it is also laid down in international conventions containing specific obligations (Convention on Biological Diversity, FAO International Treaty on Plant Genetic Resources for Food and Agriculture).” Thus, it can be said that Hungarian regulations have been developed not only with respect of EU, but also international standards.

As regards animal health, legislation follows an interesting regulatory solution. There is no exclusive act on animal health in Hungary, but certain animal health issues are regulated in Act of XLVI on food chain and its official supervision (hereinafter referred to as Éltv.). Éltv's scope covers the following among others:

- vehicles for transporting food, feed and live animals and their disinfecting;
- keeping, breeding, placing on the market, transportation, slaughtering, killing, medical treatment and health examination concerning animals, as well as hygienical conditions of animal breeding facilities and technologies;

- production, storage, transport, placing on the market and use of feed intended for animal feeding;
- holding, collecting, storing, disposing, transporting, handling and placing on the market of plant and animal by-products
- epidemiological and animal health supervision of pet animals.

Until 31st of December 2005, animal health was regulated by a separate act, Act XCI of 2005. This act's Section 45 authorized the minister of agriculture to formulate Decree No. 41/1997. (V. 28.) on issuing the rules of animal health, which is still in force.

Éltv. regulates the rights and obligations of each actor in the food chain in detail. Within this, Sections 18-21 highlight the complex of rights and obligations of animal keepers and veterinarians. Section 34 of Éltv. lists the detailed official tasks of the food chain supervision authorities in the field of animal health, which paraphrases 35 different tasks in its competence: in addition to authorization and registration tasks, they also include various control powers, but the food chain supervision authorities are also responsible for the ordaining of the execution of epidemiological measures and animal health programs.

The above-mentioned decree of the minister of agriculture on issuing the rules of animal health has originally regulated the topic in 802 sections holistically, although since the repealing of some of its provisions the quantity has been reduced, but we are still getting an exhaustive regulation.

The EU Animal Health Regulation, which will apply from 21st of April 2021, is expected to result in a major review of national legislations, as it has been in the case of animal husbandry. Although the reform of national rules in the field of animal husbandry has already begun taking into account the *acquis communautaire*, the provisions concerning animal health have to be still formulated due to the preparation period of the next two years.

### III. Food production and labeling

In the case of agricultural production, we can distinguish two trends: one is conventional agricultural production, which is capable of producing higher quantities, of course at the expense of quality, and the other one is organic production, which produces smaller quantities of agricultural products but of higher quality. From 1st of January 2021 Regulation 2018/848 on organic production shall apply within the European Union, which obviously consists of rules for the latter one.

In Hungary, Section 4 of Act XLVI of 2008 on food chain and its supervision<sup>17</sup> declares that the official supervision of food chain also covers the supervisory tasks in connection with organic and integrated farming, so they are in the competence of National Food Chain Security Office. Organic farming is a kind of farming / food production system that prohibits or restricts the use of certain pesticides, fertilizers, soil improvers and artificial veterinary medicines, as well as yield enhancers. Organic production applies high animal welfare standards, and it contributes to the preservation and sustainability of the natural

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<sup>17</sup> See also: Reiterer Zoltán: Topical legal questions of the food chain and its authority supervision. In: *Agrár- és környezetjog*, 2016/20., pp. 122-130.; Reiterer Zoltán: Az élelmiszerlánc-szereplők feladatainak egyes kérdései. In: *Publicationes Universitatis Miskolcensis. Sectio Juridica et Politica*, 2014. Tomus 32, pp. 199-213.

environment. From the production through the processing to the trade, the economic operator applies the required principles, rules and regulations in the course of farming under enhanced monitoring. Products derived from the organic farming system are referred to with prefix „eco”, „bio” or „organic”. In the common language, many similar terms appear, e.g. „chemical-free”, „natural” or „conventional”, but these cannot be interpreted according to the rules of organic farming. In practice, this causes the most problems for consumers. They are misled by the synonyms of „eco”, „bio” and „organic”, although the product does not conform to the requirements of an organic product as defined in the Eco-Regulation.<sup>18</sup>

However, it may also be that the economic actor operating outside the control system is close to, possibly identical to, the organic farming covered by the relevant regulations, but they cannot market their products with indications referring to organic farming.

The new EU regulation, at the same time, repeals Regulation 834/2007/EC (the previous Eco-Regulation), which has determined the national legislations in EU countries so far. The Hungarian regulation's keystone is the Act XLVI of 2008 on food chain and its official supervision (hereinafter referred to as *Éltv.*), that aims to conform to the previous Eco-Regulation, as it is claimed in its Section 77. *Éltv.* refers back to the Eco-Regulation also among its definitions, when it says that organic farming is the activity conforming to the definition determined in the Eco-Regulation's Article 2, namely „the use of the production method compliant with the rules established in this Regulation, at all stages of production, preparation and distribution”. In the new Regulation this definition is complemented with the so-called conversion period, which means that products produced during the conversion period shall not be marketed as organic products or as in-conversion products. Conversion as a legal institution was also regulated in the previous Eco-Regulation, but it was not emphasized in the definition of organic production.

With regard to the division of official responsibilities<sup>19</sup>, the most important task of the National Food Chain Safety Authority is the recognition of the certification organizations. Currently, there are two certification organizations operating in Hungary: Biokontroll Hungária Nonprofit Ltd and Hungária Öko Garancia Ltd. There can be no significant difference in the operation of the two organizations in terms of control and certification, since they both operate under the same legal framework. The following activities may be audited and certified by the certification bodies according to law: crop production, harvesting of wild plants, mushroom growing, beekeeping, animal husbandry, production of processed organic feed, retail and wholesale trade, food processing, storage, import, organic wine. Concerning Biokontroll Hungária these are complemented with mass nutrition, game keeping, rabbit keeping and quail keeping based on its own system of conditions, and in the case of Hungária Öko Garancia with ostrich and emu keeping. The Government Office of Pest County carries out licensing tasks, while the district offices in charge of food chain safety and animal health, as well as the district offices responsible for plant protection and soil protection control the compliance of the eco-label and apply sanctions, such as the following ones:

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<sup>18</sup> See more: Kókai-Kunné Szabó Ágnes - Pallóné Kisérdi Imola - Várkonyi Gábor: A minőségtanúsító védjegyek szerepe az agrárgazdaságban. In: *Élelmiszervizsgáló közlemények*, 2012. (68. évf.) 3-4. füz. pp. 145-150.

<sup>19</sup> See more: Olajos István: Az élelmiszerlánc-szabályozás. In: Szilágyi János Ede (edit.): *Agrárjog - A magyar agrár- és vidékfejlesztési jogi szabályozás lehetőségei a globalizálódó Európai Unióban*, Miskolc, Miskolci Egyetemi Kiadó, (2017) pp. 265-285

- they ordain the restriction or prohibition of the product's marketing with using the term „organic production”,
- they ordain the restart of conversion period of the organic production activity in full or partly, or
- they ordain the exclusion of the economic actor from the control system of organic production to a maximum of 3 years.<sup>20</sup>

It is also important to note that the certification body may authorize the use of non-organic seed and vegetative germinal product in organic production, but this has serious conditions and it is highly exceptional.

Section 10/A of Éltv. declares the following in order to meet EU requirements: „Food or feed can only be marketed with a term referring to organic production, if it has a certificate adequate for production methods determined in the Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91, and it conforms to the requirements determined in Éltv., its implementing decree and the directly applicable acts of European Union.” Section 63 of Éltv. contains the cases of food supply chain fines, and it states that the fine can be imposed on those who, through their acts or omissions, fail to comply with the rules applicable to organic farming and integrated farming. The fine can also be imposed on the certification body, if it violates the provision of Éltv., its implementing decree or the directly applicable acts of European Union during its operation or during its control or certification proceedings in connection with organic production and integrated production.

It is important to mention regarding labeling that the Article 23 of Eco-Regulation and Article 62 and 66 of Regulation (EC) No 889/2008 the following: those products can be labeled and marketed with a marking referring to organic production which appear on a valid certificate issued by the certification body to the farm or the company after the on-the-spot inspection. Consumers are still often confused in their interpretation, especially in smaller organic shops (using the terms „chemical-free”, „reform” etc.), so it is important to clearly distinguish between products that are produced, controlled and certified according to the legal requirements of organic farming and other food. Clear recognition is served by the eco-label of EU, which was renewed from 1st of July 2010 and it can be used on pre-packaged products produced in the European Union. Besides the eco-label of EU, it is worth emphasizing that both of the Hungarian certification bodies (Biokontroll Hungária and Hungária Öko Garancia) have their own logos.<sup>21</sup>

#### IV. Chemicals in agriculture and the environment

<sup>20</sup> Decree No 34/2013. (V. 14.) of the Minister of Rural Development on the agricultural products' and food's certification according to the requirements of organic production, producing, marketing, labeling and process order of controlling, Section 25 (1)

<sup>21</sup> See also: Hornyák Zsófia – Olajos István – Szilágyi János Ede: Legislation of product labelling in connection with marketing of local products. In: Veresné Somosi Mariann – Lipták Katalin (edit.): „*Balance and Challenges*” IX. *International Scientific Conference*, Miskolc, Miskolci Egyetem Gazdaságtudományi Kar, (2015) pp. 826-836.

In Hungary the most important provisions in connection with pesticides can be found in Act XLVI of 2008 on food chain and its official supervision (hereinafter referred to as Éltv.). In addition to pesticides, the scope of Éltv. covers the release and operation of plant protection machinery and spraying equipment for the application of pesticides. Éltv. declares in its Section 5 (2) that the purpose of the activity of plant protection is – among others – to eliminate hazards which may arise from the application, storage and other handling of plant protection products. Among the General Provisions, Éltv. states as a principle that the release of a plant or plant product that contains pesticide residue exceeding the permitted limit or toxic chemical substance is prohibited.

Éltv. formulates special provisions concerning the labelling and promoting of pesticides. According to Section 12 (2) the labelling of a pesticide must not contain expressions or markings that may result in incorrect evaluation of a product's risks, in particular it must not refer to the safety or innocuity of the product. Based on Section 13 (1) the promotion of pesticides shall contain the clear marking of the promoted product's risks influencing on human health and environment. Concerning the packaging Section 15 (6) provides guidance to us, saying that pesticides shall be put into circulation in safe packaging that excludes the endangerment of human health and environment.

Regarding pesticides and in general in the field of plant protection the most important actor is the National Food Chain Safety Office, which performs the tasks of Community authorization of pesticides' active ingredients, as well as authorization of pesticides, preventives, synergists, co-formulants, adjuvants, products qualified as non-pesticidal with pesticidal effects, products and substances for the purpose of plant protection and substances, macro-organisms based on the Section 3 of the Decree of the Minister of Agriculture No. 89/2004. (V. 15.) on the authorization of release and use of pesticides and the packaging, labelling, storage and transportation of pesticides (hereinafter referred to as the Decree). The Decree contains detailed provisions on authorization, and after the general rules of pesticide authorization there are special rules in connection with active ingredients, as well as there are certain substantial and procedural provisions concerning the examination of applications, mutual recognition, decision-making, modification and withdrawal of licenses, use for experimental purposes, case-by-case licenses and classification, packaging and labelling of pesticides etc.

Another important decree of the topic is the Decree of the Minister of Agriculture No. 43/2010. (IV. 23.) on plant protection activity. This decree's Section 5 contains general provision in connection with pesticides. Pesticides shall only be used in the authorized way and in full compliance with occupational health and chemical safety regulations. Pesticides shall be used in accordance with the provisions preventing the endangerment of human health and environment and with the instructions referring to the utilization and plant protection technology, which are based on the license of release and utilization (deed of licence) and on the pesticide's label. Pesticides are classified as Category I, II or III by the National Food Chain Safety Office from the aspect of distribution and utilization. The distribution, purchase, utilization and plant protection services in connection with pesticides in Category I and II require distribution, purchase and utilization licenses of Category I and II. The purchase and home-utilization of pesticides in Category III do not require any qualifications and licenses. This decree also determines special provisions of utilization in its Section 6. In public areas,

residential areas, recreational areas, including railway tracks passing through them, areas of public interest (especially educational, health, social, religious community institutions), home gardens, public areas handled by property owners by law only pesticides of Category II or III may be used. The general public in question shall be informed about the application of pesticides in public areas and areas of public interest in the locally usual way. Motorways, motor roads, main roads and railways outside populated areas may be handled with pesticides of all three Categories. All activities with pesticides shall be organised in such a way as to avoid dispersion and waste generation as far as possible. Unlawfully distributed pesticides and its packaging shall be treated as hazardous waste.

Different rules have been established for the use of pesticides in enclosed spaces. For plant protection purposes in enclosed places (such as in a greenhouse, under a foil, in a mushroom cellar or in crop storage facilities) only such pesticides may be used that are licensed for all types of culture and crop produced and stored in the space in question, unless it can be ensured that cultures and crops not licensed for the given pesticide avoid contact with it. On the entrance of the enclosed space treated with pesticide, for the duration of the withdrawal period prescribed for that plant protection product a sign shall be placed with the following caption: „Caution! Area treated with pesticide! It is forbidden for unauthorized persons to enter!”. Before the end of withdrawal period and after it during the ventilation all work shall be carried out with the protective equipment specified in the deed of licence of the applied pesticide. In an enclosed space automatic plant protection machinery and equipment shall not be left without supervision by the expert during the treatment. In case of preventive treatment crops shall be marked with the indication of treatment during the withdrawal period.

The active ingredient called acetamiprid can be found in pesticides of Category II and III, thiacloprid in pesticides of Category I and II according to the database of National Food Chain Safety Office. The problematic active ingredient called fipronil could only be found in an insecticidal product, but in compliance with the requirements of the European Union the validity of its licence ceased on 31st of December 2013. The one and only pesticide in Category I with the active ingredient of thiacloprid is a type of seed dressing, which are applied on maize. The validity of its licence is going to cease on 30th of April 2023. Nowadays concerning the application of pesticides in combination the question of combined impact arises more frequently. In fact, when two or more preparations are used together, the effect may not be additive. The phenomenon of synergism, whereby one of the active ingredients significantly increases the effect of the other many times, is known. Examples of such synergistic effects are the active ingredients acetamiprid and tebuconazole or the active ingredients thiacloprid and tebuconazole, which are not obliged to be marked separately in case of bees. Although they are not dangerous to bees individually, but during their application in tank mix bee-saving technology shall be kept („the so-called evening aerial spraying”).<sup>22</sup>

It is important to note in connection with the active ingredient fipronil that even in 2019 the National Food Chain Safety Office withdrew such veterinary health care products for honeybees from circulation that were polluted with fipronil according to laboratory tests.

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<sup>22</sup> See also: Tóth Péter - Szabó Árpád - Fail József - Péntes Béla: Méhpusztulás méhekre nem jelölésköteles növényvédő szerek kombinációi által. In: *Agrofórum: a növényvédők és növénytermesztők havilapja*, 2018/4., pp. 30-32.

The activity of manufacture of medicinal products was also suspended by the food safety office regarding the company subject to the case.

In the context of current issues, it should be noted that since Article 4 of Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides obliges Member States to draw up National Action Plans addressing risks and impacts of pesticides on human health and the environment and aiming the implementation of integrated plant protection, Hungary also continues to update and adapt the Action Plan to meet emerging needs. Within this framework, the draft of our National Plant Protection Action Plan 2019-2030 has already been prepared. Although the draft does not yet fully reflect the official position of the Committee on Plant Protection and the Ministry of Agriculture, it does provide a comprehensive picture of future requirements and targets. The main objective of the draft of the action plan is to promote the cause of integrated plant protection, as well as the development and introduction of safer alternative plant protection technologies. The major challenges of recent years, not only in Hungary, but also in the European Union, have been that producers have faced almost insurmountable obstacles due to the extraction and restriction of active substances in plant protection products. The draft also emphasizes the need to introduce a new approach that uses the up-to-date results of science and causes the least damage to the environment by producing the right quantity and quality of crops. The way to achieve this objective is to apply integrated plant protection in all areas where plant products are produced.

It is important to point out that the Hungarian regulation is largely in line with EU requirements and not only our legislation, but also our law application reacts quickly to the decisions made within the institutions of the European Union. In general it can be said that Hungary's regulation – of course, due to the requirement of orientation in professional issues – is solved and comprehensive. Under the level of Éltv. there are many ministerial decrees, which regulate the topic in detail, continuously adjusting to the rules of EU. Among the decrees it is worth mentioning the following ones: the Decree of the Minister of Agriculture No. 103/2003. (IX. 11.) on packaging waste contaminated with pesticides, No. 66/2010. (V. 12.) on the maximum limit of pesticide residues in and on food and feed of plant and animal origin and their official supervision, the Decree of the Minister of Rural Development No. 10/2010. (VIII. 18.) on rules concerning limit values of the water pollution of surface water and their application, or the Decree of the Minister of Nature Protection and Water Management No. 31/2004. (XII. 30.) on certain rules of monitoring and status assessments of surface waters.

## V. Tax law provisions regarding the competitiveness of the national agricultural law - Personal income tax, Value-added tax

### *a-b: Personal Income Tax*

From an agricultural law perspective the personal income tax addresses the sector's issues the most. Most private individuals perform agricultural cultivation not as a private entrepreneur but as an additional source of income which is especially important for the

people, who are living in the rural areas. The sector's other particularity is their high cost and their questionable verification. Even though the agriculture as a sector demands great costs, these costs manifest in self-performed tasks or self-produced crop, actions which the taxpayer does not have bills for.

In the light of the above mentioned, the Act CXVII of 1995 on Personal Income Tax addresses the income of those private individuals who perform agricultural cultivation specially. The aforementioned law establishes the category of small-scale agricultural producers as well as agricultural smallholders, defines tax exemptions as well as provides discounts on income, establishes special small-scale agricultural flat-rate costs, provides tax relief for small-scale agricultural producers, and as a special tax rule it creates the option of flat-rate taxation.

There are several tax exemptions related to the agricultural area, such as the income from the transfer of a cooperative business share obtained in the course of the realization of the cooperative business, the annuity obtained for land, the income from the transfer and lease of land, and the payment of land. It is also clear from the list that tax law exempts land income in particular from personal income tax.

While ensuring the tax exemption, the personal income tax law provides favourable taxing conditions for taxpayers engaged in agricultural activities.<sup>23</sup>

Specific rules apply to small-scale agricultural producers and agricultural smallholders, the rules which apply to agricultural producers also apply to family estate farmers and their contributing family members and extend to the private individuals who engage in agricultural production and are registered in the customer registration system maintained by the agricultural and regional development aid.

Small-scale agricultural producer<sup>24</sup> means a private individual above the age of 16 who is not a private entrepreneur but possesses a small-scale producer license and is engaged in activities aimed at producing the listed products on his own farm.

Own farm shall mean the entitlement of the private individual who is actually conducting the production activities to dispose over the equipment (including leased equipment), the organization of production and - with the exception of cultivating sowing seeds under contract and breeding, fattening, and tending livestock under contract - the use of the results of production.<sup>25</sup>

Tax law also provides the definition of small-scale producer license: small-scale producer license means an official document issued and validated pursuant to the provisions of a government decree designed to register the income generated by small-scale agricultural activities; the license shall contain: a) the particulars of the small-scale agricultural producer, b) all of the other information prescribed in the government decree that is necessary for discharging tax liability.<sup>26</sup>

According to the personal tax law special taxation conditions are granted only to private individuals engaged in agricultural production, an important element of the concept of small-scale agricultural producer is the activity or the product to which this activity is directed.

Small-scale agricultural production activities include the growing of plants, orchards, breeding of animals, and processing of products at an individual's farm, if this occurs using base materials which are themselves produced at the farm, the collection of certain agricultural products at an individual's own farm which does not violate the law, and forestry

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<sup>23</sup> Szakács Imre: *Az adózás nagy kézikönyve*, Budapest, KJK-Kerszöv, 2008, 762.

<sup>24</sup> Hadi László (szerk.): *Az új adójog magyarázata*, 2010, Budapest, HVG-ORAC Kft., 2010, 871.; Section 3, point 18 of Act CXVII of 1995 on Personal Income Tax

<sup>25</sup> Section 3, point 18 a) of Act CXVII of 1995 on Personal Income Tax

<sup>26</sup> Section 3, point 18 b) of Act CXVII of 1995 on Personal Income Tax

activities conducted in an individual's own forest area, if, in respect of all of the aforementioned activities, the product produced or the activity falls under either of the categories listed in Act CXVII of 1995 on Personal income tax law.<sup>27</sup>

The concept of agricultural smallholder covers a narrower concept within the concept of a small-scale agricultural producer. Agricultural smallholder means any small-scale agricultural producer whose revenue from such activities does not exceed 8 million forints – 26230 euro - in a tax year. The special category is important because it provides better tax conditions for the individual.

The income from small-scale agricultural producer activities is one type of income derived from self-employment activities<sup>28</sup> within the aggregate taxed earnings, so income is determined by itemized expense accounting or 10 per cent expense ratio.<sup>29</sup>

Small-scale agricultural producers (including agricultural smallholders using flat-rate taxation) with revenues less than 600,000 forints annually from such activities shall not be required to consider income from such revenues, while if revenues exceed the above amount, income shall be determined based on all revenues included.<sup>30</sup>

Small-scale agricultural producers using itemized expense accounting may deduct the following from their income from such activities<sup>31</sup>: a) if employing workers with at least 50 per cent disability, the monthly wages paid to each such employee, not to exceed the prevailing monthly minimum wage in effect on the first day of the month; with respect to apprentice training of vocational school students on the basis of apprenticeship agreement, as described by law, 24 per cent of the prevailing minimum wage for each student and for the month and any fraction thereof, or 12 per cent of the prevailing minimum wage for the month and any fraction thereof if the apprentice training is provided under a cooperation agreement concluded with the vocational school. A small-scale agricultural producer (for the purposes of this Section hereinafter referred to as 'employer') providing further and continuous employment to a vocational school graduate who has successfully completed the professional examination or to a previously unemployed person, or a person released from imprisonment within 6 months from the date of release, or a person released on parole, if not using flat-rate taxation, may deduct the amount of social security contribution paid during such employment, not to exceed a period of 12 months, from the revenues produced by such activities, regardless of whether such amounts can otherwise be claimed as expenses in the case of itemized expense accounting.

Agricultural smallholders using itemized expense accounting may claim 40 per cent of the revenues from such activities, deducted as smallholders' expense allowance, over and above verified expenses. In this case losses may not be deferred until, if so intended, such smallholders' expense allowance is claimed.<sup>32</sup>

In addition to the special cost accounting and income reduction rules, the legislator also provides the taxpayer with a tax break for the small-scale agricultural producer in the amount corresponding to the tax on his income from this activity,<sup>33</sup> but this amount can not

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<sup>27</sup> Appendix No. 6 of Act CXVII of 1995

<sup>28</sup> Section 8 of Act CXVII of 1995 on Personal Income Tax. The rate of tax in the year of 2017 is 15%, in principle, for all income subject to personal income tax.

<sup>29</sup> Itemized cost accounting means that the taxpayer is entitled to deduct from his income the maximum amount of his income. 'Expense' according to § 4 (3) of Act CXVII of 1995 on Personal income tax; Only expenses directly connected to gainful activities, actually paid during the tax year exclusively for the purpose of gainful activities and for pursuing the activities, which are duly substantiated shall be recognized as expenses.

<sup>30</sup> Section 23 of Act CXVII of 1995 on Personal Income Tax

<sup>31</sup> Section 21 of Act CXVII of 1995 on Personal Income Tax

<sup>32</sup> Section 22 (6) of Act CXVII of 1995 on Personal Income Tax

<sup>33</sup> Section 39 (1) of Act CXVII of 1995 on Personal Income Tax; Szakács 2008, 852-853.

exceed 100,000 forints (327 euros). The two tax breaks are collectively referred to as small-scale agricultural producers' tax breaks.

Furthermore, the law also favours agricultural smallholders by giving them the option of flat-rate taxation which in essence means that no substantive cost declaration has to be made instead it is based on the smallholders income.<sup>34</sup> The basis is the flat-rate income which is calculated by subtracting the expense ratio determined by the Personal Income Tax and expressed in a percentage of income Act from the smallholders overall income.<sup>35</sup>

This results in an extremely low tax base for agricultural smallholders, generally 15% (expense ratio of 85%) and 6% for breeding and production of animal products (expense ratio of 94%).

Agricultural activities may be conducted by the taxpayer as a private entrepreneur as well but in this case he shall be subjected to the general rules with the exception of flat-rate taxation since that is also an option for private entrepreneurs conducting non-agricultural activities.

#### c-d: Value-added Tax

VAT is sector neutral, the agricultural sector is also subject to the general rules and the law only mentions agricultural products and agricultural activities in special exceptions. The VAT Act regulates the agricultural sector with its participants and the consumers of agricultural products through special provisions.

This specialty manifests in the tax rates and the special legal status of agricultural producers.

The rate of VAT affects the consumer price of products putting the burden on the end consumers. Providing tax benefits for basic food products is in some cases necessary for the central budget to prevent them from becoming impossible to pay for by low income consumers. The law defines three types of tax rates.<sup>36</sup> The general tax rate of 27% and the reduced rates of 5% and 18%. These rates apply to different types of products and services. The general rate isn't specified by the Act, it is a collective rate which has to be applied to each transaction for which the legislator doesn't provide reduced tax rates.<sup>37</sup>

The 5% tax rate apply to herbal drugs and among others to domestic swine, cattle, sheep, goat and their meat, poultry meat eggs and milk. The 18% tax rate applies to milk products, grain and products made using these. Reduced tax rates therefore apply only to a limited circle of agricultural products.

Taxpayers in the agricultural sector are subject to the general rule but different types of special activities are provided with an option for special taxation method. This Section focuses on the rules of taxation applied to producers conducting agricultural activities (agricultural producers). The special regulations benefit the taxpayers in two areas: the taxpayer is exempted from tax obligations and the related administrative burdens, through the compensational charges gain „special budget assistance” which helps covering VAT costs related to their acquisitions.<sup>38</sup> Agricultural activities are not subject to taxes but they don't allow for tax deduction and taxpayers have no return or accounting obligation regarding these activities. The law grants agricultural producers special legal status and also provides a legal definition from a VAT perspective.

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<sup>34</sup> Section 50-57 of Act CXVII of 1995 on Personal Income Tax

<sup>35</sup> Section 53 of Act CXVII of 1995 on Personal Income Tax

<sup>36</sup> Section 82 (1)-(2) of VAT Act

<sup>37</sup> Szakács 2008, 97.

<sup>38</sup> Section 197-253 of VAT Act

A taxable person conducting agricultural activities shall mean one who fully or partially conducts agricultural activities, is qualified as micro entrepreneurship or self-employment by the special law, is established inland or otherwise has their place of residence or habitual residence inland. Agricultural activity shall mean the production or processing of products listed by the VAT Act and services provided with the use of instruments of self-owned businesses.<sup>39</sup>

Compensational charges offset non-deductible taxes in cases of purchases from the conductor of the agricultural activity. Compensational charges are part of the consideration but not the buying price and have to be paid after the transaction by the buyer.<sup>40</sup> The rate of the compensational charge is determined by the VAT Act at 12% for plants and herbal products, at 7% for livestock and animal products and also for providing services. Therefore compensational charges provide additional income for taxable persons conducting agricultural activities and the option to pass on VAT of acquisitions.

Compensational charges weigh only on the end consumer since the recipient has the option to deduct the VAT.

## Summary

Considering GMO-regulation Hungary is on the path of GMO-free agriculture.<sup>41</sup> It is explicitly declared in the Fundamental Law of Hungary in Act XX, Section (2). The first

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<sup>39</sup> Section 198, point a-c) of VAT Act. Sections I and II of Appendix 7 of the Act list all the products and services in the field of agricultural activities (e.g. living plants, livestock, animal products, food products from the processing of agricultural products, field work, packing and storage of agricultural products).

<sup>40</sup> Section 201-202 of VAT Act

<sup>41</sup> See especially: Balázs Ervin – Dudits Dénes – Sági László (edit.): *Genetikailag módosított élőlények (GMO-k) a tények tükrében (Genetically modified organisms [GMO-s] in the light of the facts)*, Szeged, Barabás Zoltán Biotechnológiai Egyesület – Pannon Növény-biotechnológiai Egyesület, 2011; Gyula Bándi: *Környezetjog (Environmental Law)*, Budapest, Szent István Társulat, 2011; Bézi-Farkas Barbara – Jasinka Anita: *A géntechnológiai tevékenység szabályozása (Regulation of genetic engineering activity)*, in: Csák Csilla (edit.): *Agrárjog (Agricultural Law)*, Miskolc, Novotni Kiadó, 2006, 487-495.; Darvas Béla (edit.): *Részletek... a 27. GMO-Kerekasztal ülésén elhangzott hozzászólásokból (Partials... from the comments on 27. GMO-Round Table Meeting)*, Budapest, 25. March 2015.; Darvas Béla – Székács András (edit.): *Az elsőgenerációs géntechnológiai úton módosított növények megítélésnek magyarországi háttere (Hungarian background of the opinion about the first generation genetically modified plants)*, Budapest, a Magyar Országgyűlés Mezőgazdasági Bizottsága, 2011; Farkas Csamangó Erika: *A géntechnológia agrárjogi aspektusai (Agricultural aspects of genetic engineering)*, *Acta Universitatis Szegediensis Acta Juridica et Politica*, 2005/7; Heszky László: *Az 'Amflora' GM-burgonya fajta 2010-től termeszthető az EU-ban ('Amflora' potato is allowed to cultivate from 2010 in the EU)*, *Agrofórum*, 2010/4, 99.; Horváth Gergely: *A 'zöld' géntechnológia alkalmazásának gazdasági- és agrár-környezetvédelmi kockázatai (Economic- and agri-environmental risks of application of 'green' genetic engineering)*, *Külgazdaság Jogi Melléklete*, 2008/7-8, 87-106.; Horváth Zsuzsanna: *Védelem a tudományos bizonyosság hiányában: az elővigyázatosság alapelve az Európai Unió környezeti jogában (Protection in the lack of scientific evidence: the precautionary principle in the Environmental Law of the EU)*, in: Csapó Zsuzsanna (edit.): *Ünnepi tanulmánykötet Bruhács János professor emeritus 70. születésnapjára (Anniversary study volume for the 70. birthday of János Bruhács professor emeritus)*, Pécs, PTE-ÁJK, 2009, 88-115.; Julesz Máté: *GMO-mentes alkotmány (GMO-free constitution)*, *Orvosi Hetilap*, 2011/31, 1255- 1257.; JNO (Parliamentary commissioner for future generations): *az új Alaptörvény környezetvédelmi és fenntarthatósági rendelkezéseiből eredő állami felelősségről*, 258/2011. sz. állásfoglalása (No. 258/2011. opinion about the state responsibility arising from regulations of the Fundamental Law on environmental protection and sustainability) (25. April 2011.); Kovács Judit Nóra: *Észrevételek az USA GMO politikájához (Remarks on GMO politic of the USA)*, in: Csák Csilla (edit.): *Jogtudományi tanulmányok a fenntartható természeti erőforrások körében (Legal studies among sustainable natural resources)*, Miskolc, University of Miskolc, 2012, 104-115.; Olajos István: *A géntechnológiai tevékenység szabályozása Magyarországon (Regulation of genetic engineering activity in Hungary)*, in: Szilágyi János Ede (edit.):

proposal of the Fundamental Law did not contain the commitment on GMO-free cultivation, it appeared only in an amendment. Originally, the amendment contained the conception of GMO-free healthy food, however, as it could have infringed EU Law, the text was changed to GMO-free agriculture. The regulation of GM-technologies is on the dividing line of Hungarian environmental law and agricultural law. Regarding recent developments, cloned food is considered novel food.<sup>42</sup> In connection with the regulation of novel food, as an answer of the GMOs and food counterfeiting for the interest of the maintenance of GMO-free agriculture, the amendments of our Criminal Code and the Act on food chain and its official supervision are expected.

On 8th of June 2016 the European Parliament and the Council adopted the so-called Animal Breeding Regulation. Hungary's National Assembly accepted Act LVI of 2019 on the statutory provisions necessary for the regulation of animal husbandry, which came into force on 1st of August 2019. Although the Animal Breeding Regulation of EU is a lengthy legislative act, the mentioned Hungarian Act has only 11 sections about the topic. It means that there are numerous governmental and ministerial decrees under the level of statutes in the interest of the Act's implementation. Our new Animal Husbandry Act aims to meet the EU expectations, it provides a solid foundation for modern legal regulation and it liberalizes the market. From the entry into force, several breeding organizations may be engaged in the breeding of the same breed. However, special attention is also given to the protection of indigenous animals, thus creating harmony between EU and Hungarian relations. We can also say that Hungarian regulation evolves with respect to the EU regulation, with the determination according to Hungarian traditions.<sup>43</sup>

Considering organic farming<sup>44</sup> in Hungary, Section 4 of Act XLVI of 2008 on food chain and its supervision declares that the official supervision of food chain also covers the supervisory tasks in connection with organic and integrated farming, so they are in the

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Környezetjog (Environmental Law), II. vol., Miskolc, Novotni Kiadó, 2008, 73-88.; Pánovics Attila: Génmódosítás-mentes régiók Magyarországon (Regions in Hungary clear from genetic modification), Környezetvédelem (Environmental Protection), 2005/2, 16.; Tahyné Kovács Ágnes: A GMO-k jogi szabályozásáról egyes környezetjogi alapelvek, különösen a fenntarthatóság jegyében (About legal regulation of GMO-s in the light of the environmental protection principles, especially the sustainability), in: Raisz Anikó (edit.): A nemzetközi környezetjog aktuális kihívásai (Current challenges of International Environmental Law), Miskolc, University of Miskolc, 2012a, 196-206.; Tahyné Kovács Ágnes: Génmódosítás a mezőgazdaságban és a genetikai erőforrások fenntartása (Genetic engineering in the agricultural and conservation of genetical resources), in: Csák Csilla (edit.): Jogtudományi tanulmányok a fenntartható természeti erőforrások körében (Legal studies among sustainable natural resources), Miskolc, University of Miskolc, 2012b, 180-191.; Bándi Gyula: A környezethez való jog értelmezése a fenntartható fejlődési stratégia és az Alaptörvény fényében. In: Acta humana : emberi jogi közlemények, 2013/ 1., 67-92.

<sup>42</sup> See also: Kurucz Mihály: Az élelmiszerjog szabályozásának agrárjogi összefüggései, azonosságok, párhuzamosságok, átfedések az agrárjoggal. In: Menyhárd, Attila (szerk.) 350 éves az Eötvös Loránd Tudományegyetem Állam és Jogtudományi Kara, Budapest, Magyarország: ELTE Eötvös Kiadó, (2018) pp. 352-371.

<sup>43</sup> See also: Julesz Máté: Klónozás és jog Magyarországon. In: Orvosi hetilap, 2015/11., pp. 434-438.; Navratyil Zoltán: Az embrionális őssejtkutatások és a terápiás klónozás jogi szabályozásának nehézségei. In: Magyar jog, 2012/4., pp. 228-236.; Bándi Gyula: Gondolatok az elővigyázatosság elvéről. In: Jogtudományi Közlöny, 2013/10., pp. 471-480.

<sup>44</sup> See also: Kurucz Mihály: A szellemi tulajdon szabályozásának agrárjogi specifikumai: különös tekintettel annak az árujelzők és a termőhelyi földhasználat között keletkezett összefüggéseire. In: Miskolci Jogi Szemle: A Miskolci Egyetem Állam- és Jogtudományi Karának Folyóirata 12 : 2 pp. 298-316. (2017); Csák Csilla: Magyar Nemzeti Jelentés a mezőgazdasági vállalkozások jogi formáiról, figyelemmel a hagyományos és az ipari művelésre. In: Agrár- és környezetjog, 2010/8., 21.

competence of National Food Chain Security Office. Organic farming is a kind of farming / food production system that prohibits or restricts the use of certain pesticides, fertilizers, soil improvers and artificial veterinary medicines, as well as yield enhancers. With regard to the division of official responsibilities, the most important task of the National Food Chain Safety Authority is the recognition of the certification organizations. Currently, there are two certification organizations operating in Hungary: Biokontroll Hungária Nonprofit Ltd and Hungária Öko Garancia Ltd.<sup>45</sup>

In Hungary the most important provisions in connection with pesticides can be found in Act XLVI of 2008 on food chain and its official supervision (hereinafter referred to as Éltv.). In addition to pesticides, the scope of Éltv. covers the release and operation of plant protection machinery and spraying equipment for the application of pesticides. Éltv. declares in its Section 5 (2) that the purpose of the activity of plant protection is – among others – to eliminate hazards which may arise from the application, storage and other handling of plant protection products. Éltv. formulates special provisions concerning the labelling and promoting of pesticides. Regarding pesticides and in general in the field of plant protection the most important actor is the National Food Chain Safety Office, which performs the tasks of Community authorization of pesticides' active ingredients, as well as authorization of pesticides, preventives, synergists, co-formulants and adjuvants.

In connection with agricultural taxation, from an aspect of the agricultural law the personal income tax addresses the sector's issues the most. Most private individuals perform agricultural cultivation not as a private entrepreneur but as an additional source of income which is especially important for the people who live in rural areas. The VAT Act regulates the agricultural sector with its participants and the consumers of agricultural products through special provisions. This specialty manifests in the tax rates and the special legal status of agricultural producers.

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<sup>45</sup> See also: Hornyák Zsófia – Olajos István – Szilágyi János Ede: Legislation of product labelling in connection with marketing of local products. In: Veresné Somosi Mariann – Lipták Katalin (edit.): „*Balance and Challenges*” IX. *International Scientific Conference*, Miskolc, Miskolci Egyetem Gazdaságtudományi Kar, (2015) pp. 826-836.