

XXX European Congress and Colloquium of Rural Law

Conclusions of Commission I

The topic of the present Commission is rooted in several issues previously discussed in CEDR Congresses, among others the Røros 2005 Congress (Commission I) and Potsdam 2015 Congress (Commission II).

The concept of food sovereignty does not occur explicitly and directly in any of the constitutions of the countries for which National Reports were presented, both for time reasons and because many countries have so far rejected the legal relevance of this term. Moreover, in strategy documents and legislation below the level of the constitution, there is only indirect general mention, with certain exceptions (for example, Italy, Spain and Hungary). As a general rule, we can conclude that export-oriented countries with significant economic potential are less interested in promoting food sovereignty.

On the other hand, also taking Article 39 TFEU into consideration, food security is present in a greater number of national legal orders, even though in certain cases it is hard to distinguish food security and food safety for linguistic reasons (in Italian, Spanish and Portuguese the two expressions being identical). Further, food security is a notion which is gaining importance even in countries where it has not been on the agenda over the past decades, in part by reason of human rights.

Similarly, the right to food (and right to water) has started to emerge directly, either on a constitutional level (Hungary), a legislative level (Bulgaria and Spain) or a strategic level (Germany). And it should also be noted that in some countries food security and the right to food are treated as the same. In other countries, the right to food derives from allied constitutional rights, especially the right to health, the right to life and social security as well as constitutional principles.

Even if overall there is little direct appearance of the above concepts in legal texts and legal practice, many countries – independent of their economic power – identify the following challenges connected to food security:

- an ageing rural population
- fragmented agricultural structures
- non-agricultural investments and, in this regard, the non-agricultural use of agricultural land
- climate change
- the imperative of supporting small-scale farmers
- the sharing economy.

In connection with these challenges, increased reference to food sovereignty, food security and the right to food is to be expected.

We can also state that most countries for which National Reports were presented have international commitments (above all, in the form of the relevant UN conventions) with regard to the right to food, notwithstanding that this right does not necessarily appear in the jurisprudence and legal practice of the national courts.

At international level, the VGGT¹ was the first document to emphasize the connection of food security with land tenure and governance, while, at EU level, the relevance of three EU soft law documents should be highlighted (EESC 2015,² EP 2017³ and EC 2017⁴).

¹ Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, Committee on World Food Security (CFS) of 12 May 2012

² European Economic and Social Committee: Opinion: Land grabbing – a warning for Europe and a threat to family farming, NAT/632-EESC-2014-00926-00-00-ac-tra (EN), Brussels, 21 January 2015

Although the importance of the VGGT is not recognised in all the countries for which National Reports were presented, we can state that the problems touched upon in this document are common to nearly all European countries.

The three EU soft law documents (especially EESC 2015 and EP 2017) as well as their reference to the VGGT (food security) open the way to a novel interpretation of EU legal framework for national land tenure, including such aspects as transparency and traceability of the underlying ownership of land.

We welcome that, within the scope of policies related to the concepts of food sovereignty, food security and the right to food, in certain countries uncultivated agricultural land is made available to farming families, taking into consideration the national model of the family farm and the national approach towards rural communities.

From a food sovereignty perspective, in international trade and investment negotiations each of the following issues needs to be addressed:

- chlorine-washed chicken
- hormone-treated beef
- genetically modified food and feed
- agri-FDI aspects, including acquisition of land
- related dispute settlement bodies.

While food security, food sovereignty and the right to food seem to open the possibility for the state to intervene in land tenure and related matters, the majority of states would not welcome greater EU competence in this regard, partly because regulation at national level is understood to be more appropriate and effective in facing such challenges, and partly for sovereignty reasons. More precisely, the majority considers that, with reference to Point 28 of EP 2017, the initiative of the European Parliament could infringe state sovereignty. However, a complete re-thinking of the role of the EU in national land tenure systems and the CAP would be an option, with the opportunity also to consider other solutions, for example that of the EAEU.

Brexit could have a major impact on food security, with the greatest impact likely to be felt in the United Kingdom; the questions which arise are instructive and prompt a reappraisal of the value of European integration.

Geographical indications and protection of farmers against unfair trading practices in the agri-food chain provide further aspects to be examined in the field of food security and food sovereignty.

The Commission's work was based on the national reports of **Bulgaria** (*Minko Georgiev*), **France** (*Luc Bodiguel*), **Germany** (*José Martinez*), **Hungary** (*János Ede Szilágyi – Nóra Jakab – Dávid Hojnyák*), **Italy** (*Guiliana Strambi – Mariagrazia Alabrese*), **the Netherlands** (*Bernd van der Meulen*), **Poland** (*Malgorzata Korzycka – Patryk Kalinowski – Monika Lata – Lukasz Sokolowski – Pawel Wojciechowski – Monika Zuchowska-Grzywacz*), **Slovenia** (*Franci Avsec*), **Spain** (*Teresa Rodriguez-Cachón*) and **the United Kingdom** (*Michael Cardwell – Ludivine Petetin*), as well as the individual reports of *Leticia Bourges*, *Esther Muñiz-Espada*, *José Ramón Sanchez Jaraba* and *Juan Latorre Ruiz*.

President of the Commission: Luigi Russo (Italy)

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³ European Parliament resolution of 27 April 2017 on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers, P8_TA(2017)0197

⁴ European Commission Interpretative Communication on the Acquisition of Farmland and European Union Law, 2017/C 350/05, OJ C 350, 18.10.2017