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Integrated agricultural organisation of production system and the organisations
carrying that**

Different levels and forms of integration structure developed within agriculture. Integrated systems are classified in different ways in the literature as well, several approaches are possible. Integration – which is the organised form of cooperation – can be achieved through a contractual relationship or by establishing common organisational frameworks but in both cases we can talk about a coordinated action. Integration relations established within the framework of organisational cooperation can be horizontal or vertical. In the model of horizontal integration usually the collaboration of companies with the same economic potential can be observed.¹ The participants of the collaboration cooperate with each other in order to exploit and increase their economic strength. Vertical integration means the integration of a product sector, as it basically relates to a product sector. In the case of contractual integration the similar types occur with the difference that this model is not an organisational unity in company law sense but it is an activity-oriented regulatory unity.²

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¹ Szilágyi János Ede: A magyar víziközmű-szolgáltatók integrációja jogi nézőpontból, *Pro Futuro*, 2014/1, 144-162; Olajos István: Földgázpiac és szabályozása, in: Szilágyi János Ede (ed.): *Környezetjog II: Tanulmányok a környezetjogi gondolkodás köréből*, Miskolc, Novotni Alapítvány, 175-194; Réti Mária: Az integráció, in: Vass János (ed.): *Agrárjog*, Budapest, ELTE Állam- és Jogtudományi Kar, 1999, 194-200; Bándi Gyula: Környezetvédelem, fenntartható fejlődés és integráció, in: Halustyik Anna – Klicsu László (ed.): *Cooperatrici veritatis: Ünnepi kötet Tersztyánszkyé Vasadi Éva 80. születésnapja alkalmából*, Budapest, Pázmány Press, PPKE JÁK, 2015, 49-70; Bándi Gyula: Environmental aspects of EC Law approximation, in: Inotai András – Vida Krisztina (ed.): *Financial transfers of the European Union and Eastern enlargement: Proceedings of the joint international conference of Trans European Policy Studies Association*, Institute for World Economics, Strategic Task Force for European Integration, 138; Fodor László: Integration und Umweltschutzrecht in Ungarn, in: Вапчук Ф Г, Передрій О С, Олександр Х М, Ухаль А М, Крижанівський В П, Молдован В В, Павлов О А (ed.): *Theory and practice of market transition period: economic, law and international aspects*, Konferencia helye, ideje: Szlovákia, 2001.03.27-2001.03.30, Ungvár, 54-59; Fodor László: Integrativitás és integráció, avagy újabb kihívások hazai környezetjogunkkal szemben, *Magyar Jog*, 1999/7, 398-409.

² Szilágyi János Ede: Az európai integrációt megelőző magyar borjog története, *Publicationes Universitatis Miskolciensis series Juridica et Politica*, 20008/1, 197-225; Szilágyi János Ede: A bor

The importance and significance of integrated relations are determined by their state recognition. Integration is an indispensable element and precondition of agricultural organisation of production. Various integration models have developed concerning historical perspective and they have a growing importance. In itself multifunctional agriculture³ is an integration model, such kind of integration model that realizes the integration of different interests, such as economic, social and environmental protection interests. There are mandatory elements, rules of the validation of different interests, e.g. cross compliance, etc., when agri-environmental or environmental interests shall be taken into consideration and shall be combined in economic activities.

In addition, there are such common interests that appear as possible elements, such as promotion and validation of social character within the frame of agricultural activity. In the long term, the development and placement of possible interests integration into agricultural frames creates the real purpose of integration in which case the complex treatment of economic and social issues may be carried out.

In this study I would like to illustrate the organizational and contractual form of economic integration, the realization forms and further development possibilities of interest integration from legal regulation point of view. In itself, integration is a quite broad term which is considered to be an organised, state-recognised form in order to enforce economic or economic and individual interests and benefits.

1. Organisational issues of economic integration

Several theories have developed for the economic theoretical approach and analysis of agro-economic activities and cooperative relations and for the examination of paradigms and alternative paradigms from economics perspective. Economic utility, expediency analysis and models have been defined which can be regarded as decisive

közös piacszervezetének kialakulása és fejlődése, valamint a magyar integráció, *Studia Iurisprudentiae Doctorandorum Miskolciensium-Miskolci Doktoranduszok Jogtudományi Tanulmányai*, 2008/9, 447-466; Andréka Tamás – Bányai Krisztina – Olajos István: A magyar agrár-piacpolitika legfontosabb változásai a Közös Agrárpolitika 2013-as reformját követően, *Agrár- és Környezetjog*, 2015/19, 19-32; Olajos István: A telepítési jogok helye és szerepe a borpiaci rendtartásban, in: Cserba Lajos (ed.): *A magyar bor, mint a jogvédelem tárgya*, conference, Miskolc, Hungary, 11.11.2011, 1-15; Kurucz Mihály: Közjogi korlátozások a piacszabályozás körében, in: Vass János (ed.): *Agrárjog*, Budapest, ELTE ÁJK, 1999, 235-271; Bándi Gyula: Integrated water policy as a part of the EU enlargement process: the case of Hungary, in: Thomas Bruha – Hans-Joachim Koch (ed.): *Integrierte Gewässerpolitik in Europa: Gewässerschutz, Wassernutzung, Lebensraumschutz*, Baden-Baden, Nomos, 2001, 297-316.

³ Fodor László: A multifunkcionális és fenntartható mezőgazdaság európai modellje, *Pro Futuro - A Jövő Nemzedékek Joga*, 2012/2, 128-137; Olajos István: A fenntartható földhasználat határai, avagy dilemmák az energetikai növények természetességének kérdésében, in: Csák Csilla (ed.): *Jogtudományi tanulmányok a fenntartható természeti erőforrások témakörében*, Miskolc, University of Miskolc, 2012, 142-151; Bándi Gyula: A fenntarthatóságtól a körkörös gazdaság felé: EU stratégiák alakulása és ennek jogi következményei, *Fontes Iuris: Az Igazságügyi Minisztérium Szakmai Folyóirata*, 2016/1, 13-21.

elements from economic policy point of view. However, economic integration must fit into the systematic system of organisation of production and management which organisational frameworks and operating mechanisms are ensured by legal regulation.

In historical approach, the cooperative sector belongs to this organisational system which is explicitly classified into integrative organisations today but considering its history cooperatives realized a high level of cooperation examining their specific features.⁴ Although, there was a different regulatory direction before and after the change of regime and there is in the current operational model. The different approach of this model appears in particular in the relation between the cooperative and its members. Before the change of regime –in the system of common use system-membership interests were subordinated to the cooperative, then the balance of interests and the promotion of membership interests appeared in the legislation of cooperatives (1992, 2000, 2006, 2013) (in agricultural level but in generally as well) according to the role of cooperatives that “*co-operative is a legal person with the objective to satisfy the members economic and social needs...*”⁵ This provision clearly defines those features of cooperatives that serve the interests of the members and the purchasing, sale, service, etc. activities of cooperatives. The organisational framework of cross-border cooperation appears in cooperative level as well by introducing the regulation of European Cooperative Society (SCE) into the EU legislation⁶ and Member State’s legislation⁷. SCE, considering its legal nature, is a supranational legal person founded with subscribed share capital and variable capital that carries on the cooperative principles and values. The principal objects of European Cooperative Society should have the satisfaction of its members’ needs and/or the development of their economic and/or social activities, in compliance with the following principles which principles reflect the international co-operative principles as well and takes on them: (a) fits activities should be conducted for the mutual benefit of the members so that each member benefits from the activities of the SCE in accordance with his/her

⁴ Károly Ihrig classified cooperatives into two big category: supply and demand cooperatives. Both common feature that they intend to promote the producer interests of members but they implement this aim in different ways and with different tools. Supply cooperatives intended to increase profit by the placement of products with favourable conditions – higher volume, higher price. Demand cooperatives: (a) cooperative Banks: reduced production costs and provided higher profit on the same prices through favourable loans; (b) purchasing cooperatives: reduced production costs and provided higher profit by insuring materials and tools on a favourable price; (c) machine use cooperative: reduced production costs and provided higher profit by insuring means of production; (d) land lease cooperatives: reduced production costs and provided higher profit by acquiring agricultural land. See more: Ihrig Károly: *A szövetkezetek a közgazdaságban*, Budapest, Első Kecskeméti Nyomda és Hírlapkiadó Rt, 1937, 119.

⁵ Act V of 2013 on the Civil Code § 3:325 (1).

⁶ Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE) (the Regulation came into force on 18 August 2006) and Council Directive 2003/72/EC supplementing the Statute for a European Cooperative Society with regard to the involvement of employees (the Directive came into force on 18 August 2003 and Member States had to implement it into the national legislation until 18 August 2006).

⁷ Act LXIX of 2006 on European Cooperative Society.

participation (the priority of membership interests); (b) members of the SCE should also be customers, employees or suppliers or should be otherwise involved in the activities of the SCE (personal capacity); (c) control should be vested equally in members, although weighted voting may be allowed, in order to reflect each member's contribution to the SCE (democratic administration, the principle of one member has one vote); (d) there should be limited interest on loan and share capital (limited capital interest); (e) profits should be distributed according to business done with the SCE or retained to meet the needs of members (profit allocation based on participation, solidarity); (f) there should be no artificial restrictions on membership (open membership); (g) net assets and reserves should be distributed on winding-up according to the principle of disinterested distribution, that is to say to another cooperative body pursuing similar aims or general interest purposes (joint responsibility).⁸

As the result of the harmonised regulation of EU legislation and Hungarian legislation appeared the producer organisations and producer groups. EU legislation on producer organisations is the Regulation (EU) No 1308/2013⁹ which established a common organisation of the markets of agricultural products. Member States may -on request- recognise producer organisations, which: (a) are constituted, and controlled by producers in a specific sector listed in the Regulation; (b) are formed on the initiative of the producers; (c) pursue a specific aim which may include at least one of the following objectives: (ci) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity; (cii) concentration of supply and the placing on the market of the products produced by its members, including through direct marketing; (ciii) optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices; (civ) carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments; (cv) promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques; (cvi) promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label; (cvii) management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity; (cviii) contributing to a sustainable use of natural resources and to climate change mitigation; (cix) developing initiatives in the area of promotion and marketing; etc.

A producer group or a producer organisation gains its status as the result of state recognition which decision is taken by the Minister for Agricultural Policy.

⁸ Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society, Introductory Provisions.

⁹ Regulation (EU) No 1308/2013 of the European Parliament and of the Council (17 December 2013) of establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.

Organisations, operating in cooperative form or in certain cases in business association form, may apply successfully for state recognition under certain conditions and in the case of enforcement of operational mechanism required by legal regulation. Producers operating according to the same product or group of products, concentrated into integrator organisation achieve a higher integration level by state recognition. A (agricultural) cooperative or a business association recognised as a producer group or a producer organisation supplies services for its members and carries out activities in order to strengthen the member's market position. A close and coordinated relationship and operational order between members and the organisation is required by legal regulation which means that the members and the organisation shall conclude a purchasing agreement, they shall observe strict production rules, a specific amount of their production of goods shall be distributed through the organisation and they may sell only their own produced products to the members of the group. Provisions on the operational order of producer groups and producer organisations and the compliance of them are closely linked to the Common Agricultural Policy (CAP) and to the expectations of the CAP-associated support aims and procedure.

2. The forms of economic integration based on cooperation contract

Within the organisations which are recognised as a producer organisation or a producer group it is compulsory to be a contractual relationship between the members and the integrator organisation in order to ensure economic activities. However, we have to distinguish the integration cooperation agreement within the organisation from the cooperative relations and contractual relations of persons who exercise agricultural activities as independent legal entities. These contractual relationships may be various, such as, a contract concluded between agricultural operators. Another type is a contractual relationship between the moderator and a person exercising agricultural activity, when the moderator supplies services for the external (non member) integrated person. Integrated contractual relationship can be distinguish according to the degree, magnitude (contracted sales volume, etc.) or the extent (number of integrated people) of integration. Pursuant to this classification we can talk about local, regional and national relationship forms. Contractual relationship may be established for products, group of products or product sector.

The Civil Code creates the legal regulation of contractual relationship. The Civil Code regulates typical contracts within the frame of the sales contracts for the supply of own produced agricultural goods¹⁰ and sales contracts for the supply of

¹⁰ § 6:232 [*Sales contracts for the supply of own produced agricultural goods*]

(1) If the seller undertakes an obligation for the supply of agricultural goods and/or produce of his own production or livestock that he himself has raised at a future date, he shall be entitled to perform ten per cent below the quantity stipulated in the contract.

(2) The seller shall also be entitled to effect performance of the contract referred to in Subsection (1) before the stipulated delivery date, provided that the buyer is notified in advance of commencement of performance while ample time is provided to him to make the necessary preparations.

agricultural goods produced with the buyer's involvement.¹¹ The National Chamber of Agriculture drew up a proposal about developing the contractual construction of integrated organisation of product according to the product sector. The proposal would regulate the integration contract as a sui generis contract which legislative background is the Civil Code, exactly the provisions of sales contracts which are concluded for agricultural goods produced with the assistance of the buyer and integration contract combines the contractual rules of producer organisations. Regarding the subjects of this contract, state recognition and the registration process of an integrating organisation is an essential condition in the integration construction as well. Besides the elements of services and economic relationships the benefits and advantages associated to the model are essential and progressive: (a) machine service provided on the basis of organisation of production (integration) contract by the production manager (integrator) for integrated enterprise in favour of producing crops and productions, harvesting products, livestock production and their transportation and processing shall be considered as his/her own activities according to authorisation; (b) products and crops production, breeding and keeping animals, transportation of them carried on by the integrator for the integrated enterprise shall be considered as the transportation carried on by himself; (c) the integrator who carries on regional or national organisation of production can provide financial service for the enterprise integrated by him/her without the permission of the Hungarian National Bank; (d) certain investments, exceeding at least one billion Forint which is implemented by an enterprise carrying on national organisation of production, shall be considered as economically priority investments; (e) the sale of goods by the production manager (integrator) within the frame of organisation of production (integration) contract is not considered as wholesale activity; (f) profit before taxes should be reducible by the recognised production manager (integrator) in the amount of 3% of net income of product (purchased under organisation of production (integration) contract) which is placed in a separate mutual funds purchased, and the profit shall be used for the payments of market risks relating to organisation of production services and for research and development payments.

The substantial part of benefits prejudices the reduction of tax and financial burden which improve the conditions of operation. The recognition and legalisation of the function of integrator financial service is a very exciting issue. One of the factors and perhaps the most important factor is the resource and financial stability for agricultural operators. The service formulated in the proposal may help in the solutions

¹¹ § 6:233 [*Sales contracts for the supply of agricultural goods produced with the buyer's involvement*]

If the seller undertakes an obligation for the supply of agricultural goods and/or produce of his own production or livestock that he himself has raised at a future date, and based on the parties' agreement the buyer is required to provide assistance to facilitate performance, and to provide information to the seller in that context, the seller shall cooperate in the provision of such service by following the instructions communicated. The seller shall pay the contracted price for the buyer's service provided to facilitate performance, and shall repay the part of any production advance received from the buyer that is not covered by the purchase price even if the production result is insufficient to cover such payments.

of it which may improve the operating conditions of resources, financial service and sales. Considering the historical background when Raiffeisen financial cooperatives (the second part of the XIX century) served these tasks towards the German rural people. The basic activities of these Raiffeisen-type cooperatives went beyond the collection of deposit and lending because they became the indicator of village life by promoting production. This aim determined the assets in which occurred the lending activity, purchasing, sales activity and other community services too.¹²

3. The integration of interests in the framework of agriculture

The idea of sustainable development, the model of multifunctional agriculture or the integration of external and internal EU policies justify that in many cases the elements of the realization of the objectives show a complex relationship between the levels and types of cooperation. However, it is common in them that in certain activity areas specific resources are mobilised and linked.

New forms of employment based on agricultural activities appear, such as the social farm model. In the model of social farm different forms of social and economic cooperation appear. The directions of interaction, cooperation are: (a) social responsibility, joint responsibility; (b) sustainable agriculture; (c) environmental awareness; (d) personal development (skills and capability development); (e) transfer of knowledge; (f) economic advantages (production, processing, sales, utilisation, income).

In accordance with social and solidarity principles, social farm is a cooperative economic form in the interest of social and environmental awareness, which performs agricultural productive, processing and service activities with the involvement of underprivileged people; and it performs additional awareness shaping activities related to agriculture for wider society. Regarding the agricultural operators, income resulting from agricultural activities is decisive. Small, medium and large plants belong to the operators. There is no form requirements for the operators who carrying on agricultural activities, so these activities may be carried on in any organisational forms (business association, co-operative, private entrepreneur, small-scale agricultural producer, family farm. etc.). Support and tax system is a largely decisive factor in choosing the form of the operator. Agricultural activity is closely linked to the use of agricultural lands. However, it should be mentioned that only a specific group of persons has right to land use and land ownership according to the law. This limitative condition can not be ignored.

The Common Agricultural Policy had to respond to the issue of sustainability with regard to the past decades and present challenges and emphasis was placed on multifunctional approach of agriculture and on the diversification of public goods and farms – including the improvement of the quality of life in rural areas. This is the question and the answer raises the extension of the concept of agricultural (basic) activities, secondary activity and the activities outside them in respect of on-farm and off-farm activities as well. This process – contrary to specialisation – leads to the multifunctional approach through diversification.

¹² Bátori Lóránt: A Raiffeisen-i szövetkezeti mozgalomról, *Szövetkezés*, 1997/1-2, 129-139.

4. Closing thoughts

Constructions and the legal regulation of agricultural organisation of production can be found in the legislation of the previous period and we can find legal institutions referring to it and specially developed solutions in the current legislation as well. The relationship forms of agricultural organisation of production may be closer or looser in the sense that the establishment of organisational unity (according to company law sense) is not required in the contractual relationship of integration, so the content of regulation is activity-oriented. However, it can be said that according to public law and private law provisions only a part of regulation is dispositive (derogating rules), mainly the cogent (mandatory) regulatory methodology prevails within integration. It is a key issue to incorporate the elements of the integrated model, to clarify the role of different integrator constellations and to determine their interfaces. Furthermore, it shall be taken into account that Fundamental Law also contains authorisation for the establishment of legislation for integrated organisation of production.