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Characteristics of Seasonal and Public Employment Relationships Linked to
Agriculture**

1. Introduction

Agriculture is a very important part of economy with special characteristics.¹ Its importance is given by its produced and negotiable goods and products. It is the source of food and food ingredients and other raw materials. These products may be vegetable or animal in origin. These products have a significant market in the economy. According to the latest data of HCSO (Hungarian Central Statistical Office), agriculture contributed to the GDP with 3.8% in 2016. The agriculture had a part of 4.5% in GAV (Gross Added Value), 5.5% in investments and 5% in the employment.²

I would like to highlight data relating to employment. The rate of 5% is not high, but significant. The number of persons getting a job in agriculture has grown over the last years. But this growth is sufficient only for stagnation. On the other hand, one of the reasons of the growth is the effect of public employment, what needs a more detailed research. The stagnation is a momentary state which cannot stop the decrease characterising this sector. The decrease of labour force has three fundamental reasons. The first reason is the transformation of agriculture. The second reason is the migration of skilled labour force. We can mark the implementation of public employment as the third reason. The effect of these three reasons results in that fewer people work in agriculture professionally.

One key element of the change of agriculture is its relationship with society. Tillage was the main element in the life of communities in the earlier eras. The family, social and power relationships connected to the use of the land.³

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¹ This paper does not analyse the family farm. About this, see more: Prugberger Tamás: Családi vállalkozást is érintő munkavégzés – A munka jogviszonyaival összefüggő szerződések elméletét érintő új irányvonalak és azok kritikai értékelése – Szintézis és megoldási kísérlet, *Pécsi Munkajogi Közlemények* 2015/1-2, 83-102.

² A mezőgazdaság szerepe a nemzetgazdaságban 2016, in: <https://www.ksh.hu/docs/hun/xftp/idoszaki/mezo/mezoszerepe16.pdf>, 5. (22.10.2017)

³ See more Hungarian literature: Szilágyi János Ede: Az Egyesült Államok és szövetségi államainak mezőgazdasági földtulajdon szabályozása a határon átnyúló földszerzések viszonylatában, *Miskolci Jogi Szemle*, 2nd special edition/2017, 576.; Olajos István: Földjogi kiskaté – kérdés felelet a magyar földjog aktuális kérdéseiből, *Miskolci Jogi Szemle*, 2nd special edition/2017, 409-417.

As the use of the land and the agricultural production were dominant in a lot of areas, these activities were meeting with recognition for a long time.⁴ Some branches of production were transforming continuously together with the development of technology. Paid work spread gradually in agriculture. So the livelihood of the workers bound less to the land. The employee was an indirect user of the land.⁵

The second reason is a general problem in the labour market, which worsens the migration of manpower having been characterising the agriculture. One part of skilled workers has become too old, the other part of them tries his luck in the open Europe.⁶ In addition, there is a deficiency in supply of new experts. Those younger generations who may take over the processing will not imagine their future at our homeland or in this branch. This problem is not a recent one, because in some earlier eras there was also a lack of agricultural workers.⁷ But the problem may escalate by the industrial development.

The third reason is the occurrence of public employment. Public employment is a special employment relationship built on state-financed programs. Its occurrence should not have a negative effect on agriculture. Agricultural production is supported by a lot of public employment programs. However, this production primarily means the production of municipal lands. On the other hand, those people get into these programs, who have worked earlier as a seasonal worker. People got in to the program are those who need the help of the social supply system, since they do not have fix and continuous wage.⁸ Their agricultural work did usually not have a trace, because in most cases they had been working in the framework of 'black work' (illegal work). Therefore, these people are registered as unemployed by the state employment service. One of the goals of public work is decreasing unemployment by the labour market activation of these people. The activation can be managed by public work programs. One more element linking to the earlier three reasons should be mentioned. This part includes the legal characters of agricultural work. The research of these characters gives us the framework to understand the root of the three problems mentioned earlier. In this study the domestic and international rules of agricultural labourers and the role of public work in agriculture will be presented.

⁴ Sály Pál: A mezőgazdasági munka erkölcsi elismerése az ókori Rómában, *Miskolci Jogi Szemle*, 2nd special edition/2017, 511-518.

⁵ Kovách Imre: *Földek és emberek – Földhasználók és földhasználati módok Magyarországon*, Budapest, MTA Társadalomtudományi Kutatóközpont Debreceni Egyetemi Kiadó, 2016, 27. A földhasználati jogokról részletesebben: Olajos István: A termőföldhasználat szabályai, in: Szilágyi János Ede (edit.): *Agrárjog. A magyar agrár- és vidékfejlesztési jogi szabályozás lehetőségei a globalizálódó Európai Unióban*, Miskolc, Miskolci Egyetemi Kiadó, 2017, 95-109.

⁶ Orbán Szabolcs – Szabados György: Mezőgazdaság és idénymunka – sajátosságok és kilátások, *International Journal of Engineering and Management Sciences*, 2017/4, 417.

⁷ The Problem of Agricultural Labour, *International Labour Review*, August – September/1940.

⁸ Böszörményi Judit: A közfoglalkoztatás rendszere, jogi szabályozása, in: Böszörményi Judit – Buránszkiné Alföldi Judit – Nagyné Véber Györgyi: *Közfoglalkoztatás 2015 – Jogi, munkajogi háttér és mezőgazdasági termeléshez kapcsolódó adózási, számviteli kérdések*, Budapest, Saldo Kiadó, 2015, 9.

2. General characteristics of agricultural work

2.1. Seasonality

When we compare the branches of agriculture, the picture is not unified.⁹ In some branches – sequential, even shift work is realized over the year. These are the branches in connection with stock farming. Branches in connection with plant growing are dominantly characterised by seasonality. Seasonal work is such a work that is performed in a specific season or a given time or period of the year, independently from the conditions under which the work is organized.¹⁰ In agriculture seasonality prevails. It means that the work is performed in times when its preconditions are materialized. The preconditions always depend on natural factors and land characteristics. Crops can be harvested, when they are grown. External circumstances greatly influence the harvest time of crops (weather, diseases). Seasonal work also assumes that one concrete work can usually be completed in a concrete time interval. The seasonal character of the work cannot be interpreted broadly. Working can be qualified as seasonal work on the basis of a concrete work phase. Seasonal character should usually be researched from the aspect of the concrete work and not from the employer's whole activity.¹¹ This question has importance in working-time organization. Working time assignment should be defined in accordance with the amount of workload to be performed and labour force hired by the employer. However, employers can rarely organize work schedules equally. In many cases, daily working is more than the legal 8 hours. Working over 8 hours a day can be performed only in an unequal work schedule. The unequal working schedule can be ordered as working time banking.¹² The Labour Code (LC) includes the rules of working time banking in the sections 93- 97. Working time banking is four months or 16 weeks which can be raised to six months or 26 weeks in case of seasonal work. If the employer has collective bargaining, working time banking can be applied in a year or 52 weeks period, if it is motivated by technical or work organization reasons. In agriculture shorter terms of working time banking are characteristic.

Beyond these, working time banking may have significance in seasonal employment, because the legal working time in a day – and in a week – and weekly rest days should be considered at the end of working banking time. Application of working time banking will be regular when in the average of the rules of working time and rest time the legal weekly working and rest time can be given.

⁹ Részletesebben: Orbán – Szabados 2017, 416-428.

¹⁰ Bankó Zoltán – Berke Gyula – Kiss György: *Kommentár a munka törvénykönyvéhez*, Wolters Kluwer, Budapest, 2017, 398.

¹¹ Dudás Katalin: Munkaidő, in: Gyulavári Tamás (edit.): *Munkajog*, Budapest, ELTE-Eötvös Kiadó, 2013, 279.

¹² A munkaidőkeretnek az idénymunkára való kiterjesztéséért a Nemzeti Agrárkamara is lobbizott: Rugalmasabb munkaidőt az agráriumban! in: <http://technika.gmgi.hu/mezogazdasagi-technika/hirek-aktualitasok/rugalmasabb-munkaidot-az-agrariumba> (23.10.2017).

Not only in the allocation of working time banking are the rules of seasonal work special, but also in the allocation of daily work rest time. In case of seasonal work the employer can order the rest time between two work activities to be 8 hours instead of 11 hours.

It is also apparent from the above that the legislator defines the rules of seasonal work flexibly. This flexibility is needed, because of the nature of work, because one concrete work phase should always be done at a concrete time. These moments are always short, so working conditions should adapt to them. However, the adaptation cannot mean the decrease in the security level of the employee.

2.2. Formation of labour relationships

The rules referring to agricultural work fit in the new trend well. The new trend is that flexible employment conditions are coming into view in contrary with typical employment relations.¹³ This also includes the anomaly that defining the fix working conditions in any form is necessary in agriculture.¹⁴

The formation of the relationship depends on the employing form of the agricultural worker. It has been suggested earlier that in some branches of agriculture work is not seasonal. In these cases the typical working rules should be applied. The labour relation is established with a written labour contract and the content of this relationship is defined by the labour contract and the LC.

Workers are employed as seasonal workers in most branches of agriculture. Seasonal work is often formed in the framework of simplified employment. Simplifying relations means reducing administration burdens.¹⁵ The employer and the worker can make a labour contract in speech or based on an employment contract. The validity of the labour contract will not be given by its formality, but by the obligatory announcement to the authorities after the contract.¹⁶ This labour relationship is established by the announcement to the tax authority on – line as well as on telephone.¹⁷ But there are two problems with this.

¹³ Employment in European Agriculture: Labour Costs, Flexibility and Contractual Aspects, (Projekt Report) in: Institute der deutschen Wirtschaft Köln [http://www.copacogeca.be/img/user/files/KAUNAS2013/EA\(14\)3559EN3.pdf](http://www.copacogeca.be/img/user/files/KAUNAS2013/EA(14)3559EN3.pdf), 2014, 19. (24.10.2017); Franco Baraldi – Alessandra Castelini – Carlo Pirazzoli: The labour factor in agriculture: an analysis between three EU partners, *New Medit*, 2/2007, 48.; see more: Tóth Hilda: Rugalmas biztonság elve a munkaviszony megszüntetése során. *Miskolci Jogi Szemle*, 2nd special edition/2017, 621-623.

¹⁴ Jane L. Collins – Greta R. Krippner: Permanent Labour Contracts in Agriculture, *Comparative Study of Society and Historie*, 3/1999, 510.

¹⁵ Bankó – Berke – Kiss 2017, 599.

¹⁶ Ferencz Jácint: *Atipikus foglalkoztatási formák*, Budapest-Pécs, Dialóg Campus, 2015, 96; Zsófia Hornyák – Nóra Jakab – Zoltán Nagy – István Olajos: Influencing factors of the competitiveness of national agricultural law – A nemzeti agrárjog versenyképességét befolyásoló tényezők, *Journal of Agriculture and Environmental Law*, 22/2017, 68-69.

¹⁷ Mélypataki Gábor: Neue Formender Beschäftigung im Agrarrecht - Új foglalkoztatási formák az agráriumban, *Journal of Agriculture and Environmental Law*, 9/2010, 38.

The first problem is that the employers usually do not notify their workers. They are employed as “black workers”. This is also confirmed by the analysis of official supervisions. 5 %¹⁸ of all illegal workers were working in agriculture in 2014, and in 2017 the rate was 10%.¹⁹ If only the number of agricultural workers is considered, the rate is even worse.

Agriculture	2011. I.	2012. I.	2013. I.	2014. I.	2015. I.	2016. I.	2017. I.
The number of controlled workers	3 052	3 488	1 254	2 377	1 205	1 580	1954
The number of illegal workers	319	479	201	361	304	249	606
The rate of illegal workers	10,45%	13,73%	16,03%	15,19%	25,23%	15,76%	31,01%

Figure no. 1
 The rate of the illegal workers in agriculture²⁰

The increasing tendency is enhanced by the possibility of applying looser rules in the legal regulations. The employers try to avoid tax payments by passing simplified work rules. Risk willingness in simplified employment is higher than in case of work relations defined by the LC, especially because of the hope of lacking the supervision of temporary, 1-day short employment. If the employer employs the worker over 15 days several times, he will “forget” the notification of further working days²¹, crossing the legal frames.

The most popular excuses for employing without notification are: (a) referring to administration mistakes; (b) data needed for the worker’s notification were given to the accountant in the right time, but he/she failed to announce them; (c) the employer wanted to notify the worker after the probationary period; (d) the worker is on ‘probationary day’; (e) workers have been notified in earlier periods.²²

¹⁸ A munkaügyi ellenőrzés tapasztalatai (2014. I. negyedév), OMMF, in: http://www.ommf.gov.hu/index.php?akt_menu=172&hir_reszlet=410 , 1.(31.10.2017)

¹⁹ A munkaügyi ellenőrzés tapasztalatai (2017. I. félév), NGM, in: <http://www.zmkik.hu/hu/zala-megyei-kereskedelmi-es-iparkamara/cikkek/a-munkaugyi-ellenorzes-tapasztalatai-2017-i-felev-101428>, 2. (31.10.2017)

²⁰ A munkaügyi ellenőrzés tapasztalatai (2017. I. félév), NGM, 3.

²¹ A munkaügyi ellenőrzés tapasztalatai (2017. I. félév), NGM, 5.

²² See 21.

The second problem connects to the technical conditions related to the notification. The difficulty of registration, the deficiency of skills and infrastructure had emerged as critics before the rules came into the force. As an example Zoltán Rác's example- cited by Jácint Ferencz – is highlighted:²³

*"... the director of the Trout Breeding Farm of Szilvásvárad cannot serve the guests in the pre-Christmas fish-shopping stunts until he has typed all the data of the workers he would apply to this job as seasonal or temporary workers, and has fought with the problems of the internet service and the lack of his computer skills."*²⁴

In addition to the highlighted example, the extent of the problem has been decreased since this quote. On-line systems are more accepted and applied nowadays. But it is correct that mainly the older age group occurs as employer in agriculture, to whom using these systems is problematic.

There is a guarantee rule when simplified employment relationship is formed. This rule is the prohibition of stepping back. It means that a labour relationship or a civil service relationship between the same partners cannot be changed for simplified employment.²⁵

Rules protecting workers are minimal in this legal relationship. A method to increase the level of protection could be an independent contract type separated from agricultural work. In this current situation an oral -bounded contract is enough without any form and contact formalities. General rules of labour relationships should be used if that is not the case of seasonal work. In our opinion, the difference is not so great between these life situations. The Hungarian legislator may be helped by foreigner examples in the formation of special legal relationships.

One example may be the regulation of the Canton of Luzern, which organizes the rules of agricultural work contracts in a special Act.²⁶ A very interesting starting point is the title of the Act, which characterizes agricultural work as a typically legal relationship, and not atypical, as in our country. It is the consequence of the characteristics of the economy. The Act determines its scope for every labour relation in what the worker works in agricultural plants or agricultural households in the Canton of Luzern.²⁷ A regulation acknowledges the partners' agreement as a generally applicable contract.

²³ Ferencz 2015, 98.

²⁴ Rác Zoltán: Az alkalmi munkavállalás új szabályainak kritikai elemzése, *Publicationes Miskolciensis Sectio Juridica et Politica*, 28/2010, 467-468.

²⁵ Rác 2010, 466.

²⁶ 854.a. Normalarbeitsvertrag für das landwirtschaftliche Arbeitsverhältnis.

²⁷ 854.a 1. §

2.3. Characteristics of simplified work

Simplified work includes agricultural seasonal work, touristic seasonal work and occasional work. The details of agricultural seasonal work are analysed in this paper.

Agricultural seasonal work: work activities including plant growing, forestry, livestock breeding, fishing, hunting branches, wrapping and logistics – except further processing – of the agricultural products grown by agricultural producers, producer groups, organizations or their associations, in case that the fix term labour relationship does not exceed 120 days in a calendar year. It is not clear from the Act of Simplified Work, but making a difference between simplified work and occasional work is necessary. Occasional work can be performed in any periods over the year without seasonality. Seasonal work is always an activity tied to a particular period and particular job in the year. Another difference is that the employer cannot employ more occasional workers as the legal extent in the framework of occasional work. The statistical number of staff should be taken into account.

The number of the staff under the scope of LC	Workers employable for occasional work
none	1 person
1-5 persons	2 persons
6-20 persons	4 persons
over 20 persons	maximum 20 % of the number of the full staff

Figure no. 2
 Limits of then number of occasional workers

The application of a headcount limit would be a guarantee rule, which would refer to only occasional work, but not for seasonal work. The limitations would not make sense in case of agricultural work, since having employees in idle times is not necessary because of the characteristics of the work. But it is interesting that despite not having a headcount limit, illegal employment is significant. Illegal employment serves avoiding taxes. In the off-season period, employing obligations could not be fulfilled. Illegal work may result in a win-win situation in a short time. The employer can give back a part of the unpaid taxes and annuities to the worker. This ‘win-win’ situation is just one moment. If the worker would be affected by an industrial accident, or he/she would need social insurance care for other reasons, then the situation would become negative. The worker does not have insurance on the day he has not been notified. The extra money the worker has pocketed is not enough for paying the first cost part of his/her care. Thinking for longer term, these days will be excluded from the needed days for retiring.

The Act draws up another seasonal work limit beside the headcount limit. This is a time-limit, which has a maximal duration of 120 days in case of that the same partners contract for seasonal work and occasional work more times in a year.²⁸ The time-limit tries to protect workers with setting time-limit for using the rules flexibly. The employers usually dish these limits too.

2.4. Questions of labour safety

Agricultural activities are varied. Included activities seem well from the definition of agricultural seasonal work: (a) cultivation; (b) forestry and hunting; (c) fishing; (d) livestock-breeding; (e) logistics of agricultural products.

These activities have their own risks and characteristics. More of them count as a dangerous activity. This is why the § 6 from the Simplified Work Act should be complemented. This paragraph rules that the employer should check whether the employee's condition is suitable for work or not. This control should be performed before starting working. The Act prescribes only the obligation of checking, but not its method. The obligation of the employer of guaranteeing healthy, not harmful working conditions should be emphasized.

Some labour safety problems can be traced back to two things. One of them is illegal work; the other is the deficit in the number of skilled workers. Agricultural employers often employ unqualified workers illegally. These two facts have led to that the number of working accidents is the highest in agriculture. This should be complemented with the increasing rate of fluctuation.

The authority noticed some kinds of anomalies of labour safety in 74.3% of the examined employers in the year of 2016.²⁹ With this rate agriculture preceded building industry in the number of irregularities. The huge number of irregularities results in the huge number of working and industrial accidents. In 2016, 18 mortal accidents, 3 severe truncated accidents, 4 other severe accidents and 9 not serious truncated accidents happened.³⁰ These data have become public. Latency is very high in case of agricultural accidents, mainly in cases of seasonal workers who are employed illegally. Statistics analysing the whole labour market and the agricultural sector at the same time show us this really well.³¹

²⁸ Raisz Anikó – Szilágyi János Ede: Development of agricultural law and related fields (environmental law, water law, social law, tax law) in the EU, in countries and in the WTO – Az agrárjog és kapcsolódó területeinek (környezetjog, vízjognak, szociális jognak, adójognak) fejlődése az Európai Unióban, a nemzetállamokban és a WTO-ban, *Journal of Agriculture and Environmental Law*, 12/2012, 124.

²⁹ Jelentés a nemzetgazdaság 2016. évi munkavédelmi helyzetéről, 29.

³⁰ Fókuszban a mezőgazdaság – első a munkavégzés biztonsága – kampányútmutató, in: http://www.ommf.gov.hu/index.php?akt_menu=559, 8. (01.11.2017).

³¹ See in detail: Nesztinger Péter: A mezőgazdaság munkavédelmi helyzete, munkavédelmi feladatok – konferencia előadás Gödöllő 13.06.2017, in: http://webcache.googleusercontent.com/search?q=cache:akr6DLISoYoj:www.ommf.gov.hu/letoles.php%3Fd_id%3D7324+&cd=1&hl=hu&ct=clnk&gl=hu&client=opera, (01.11.2017)

In 2017 the Ministry for National Economy and the Hungarian Chamber of Agriculture started a two-year program with the title of ‘Agriculture in focus – safety of employment is the first.’ The goals of this program are to raise the attention to the unsafe agriculture and to increase the level of knowledge of the employers, workers, qualified workers (agricultural, labour safety, employing-health, HR) and the population.³²

3. Public employment

The present system of public employment has been functioning since 2011.³³ The speciality of this relationship is that we should talk about public employment relationship instead of work relationship. Public employment stands close to the employment based on fixed-term labour contracts in many aspects, but many labour law rules should not be applied, for example: the wage of public employees does not reach the level of guaranteed wage minimum. Public employment is on the halfway between unemployment and employment on the primary labour market. Employment is imitated in many dimensions, but it offers worse conditions. Worse conditions are applied in order to prompt public employees for accepting work on the labour market.³⁴ Public employment has become the universal public policy instrument of the management of unemployment and poverty.³⁵ It is also a part of aid policy beside the employing aim. Active aged care can only be given to those whose employment cannot even be solved with public employment. Public employment, according to the starting plans, is considered by the government as a transitional employment form in what work and salary are ensured for jobseekers instead of aids.³⁶

The question may come up that why we deal with this employment policy instrument in this paper. The answer is simple. Because an important part of public employment programs is a type of agricultural program. The rate of public employees in agricultural programs is 17%.³⁷

This rate is not a huge part of the total employed headcount, but analysing the same headcount in agriculture, it is relevant. It is necessary to study the characteristics of the law relation, considering the agricultural employment headcount in public employment.

³²About the program more information: http://www.ommf.gov.hu/index.php?akt_menu=559

³³Jakab Nóra: Közfoglalkoztatás Magyarországon, in: Jakab Nóra – Prugberger Tamás – Rácz Zoltán – Borkuti Eszter – Rácz Orsolya (edit). *Szociális Jog I.: Európai és magyar foglalkoztatás támogatási, és munkaiügyi-, valamint munkavédelmi igazgatási jog*, Miskolc, Bíbor Kiadó, 2013, 63-66.

³⁴Koós Bálint: Közfoglalkoztatás a mezőgazdaságban, *Tér és Társadalom*, 3/2016, 48.

³⁵Váradi Mónika Mária: A közfoglalkoztatás, mint a szegénypolitika eszköze, in: *A közfoglalkoztatás aktuális kihívásai – javasolt fejlesztési irányok -tudományos-szakmai konferencia*, Belügyminisztérium, Budapest, 25th November 2015, 16.

³⁶A közfoglalkoztatás aktuális kihívásai – Javasolt fejlesztési irányok, in: *A közfoglalkoztatás aktuális kihívásai – javasolt fejlesztési irányok – tudományos-szakmai konferencia*, Belügyminisztérium, Budapest, 25th November 2015, 4.

³⁷Koós 2013, 53.

Public employment programs are realised in the framework of Start working programs in the agricultural areas in the little-village regions of the areas over the river Tisza.³⁸ There are no other work possibilities in many places, only what the municipalities and other public employers have organised. Accordingly, employees under the LC, seasonal workers under the Simplified Labour Act and public employees under the Public Employment Act work simultaneously in the agricultural field.

3.1. Public employment and agricultural activities

Before discussing detailed rules, we should deal with the will of the legislator as well. The Government obligates the Minister of Interior with the 1139/2017 (III.20.) decree – taking into consideration the shortage of labour force in the private sector – to decrease the monthly average maximal number of public workers continuously to 150.000 persons until 2020. The 11th point of the same decree includes that public employees serve flexibly the high-level labour demands of agricultural seasonal work in the interest of primary labour market reintegration. This apparent opposition may result in that in the regressive number of the public workers the rate of agricultural workers should be increased in the gradually decreasing public employed headcount. The decree does not include other concrete things over the common text, but lays down the guideline squarely. In our opinion, higher strengthening of public employment in agriculture can be expected.

Public work determined in a law, ordinance or other ways should be performed in the framework of public employment in which cultivation of communal agricultural lands and forestry are also included. Public employment is a relationship between the public employer and the public worker. According to the new rules, it could be performed as a non-profit temporary agency work.³⁹ The Act lists several employers whose full or partial activity is included in the agricultural sector: (a) local and national minority self-governments and their associations with legal personality; (b) authority of budget; (c) church legal entity; (d) non-profit foundation; (e) NGO; (f) business organization assigned or established by the state or local government for the management and maintenance of state and municipal property; (g) water company; (h) a forest manager if it is in public employment; (h1) for tasks in order to accomplish the public well-being goals of the forest determined in a separate law; (h2) rehabilitation of forest areas affected by natural damages; (h3) designation, maintenance of forest paths, hiking trails and educational paths; (h4) maintaining borderlines and their environment; (h5) creating fire protection strips and fire prevention services; (h6) collecting and transporting communal waste; (h7) forest area is cleaned from communal contamination; (i) social cooperatives in case of certain conditions;

³⁸ Ignits Györgyi – Mód Péter – Nagy Ágnes – Varga Lívía: Beszámoló a 2016. évi közfoglalkoztatásról, Belügyminisztérium Közfoglalkoztatási Statisztikai, Elemzési és Monitoring Főosztálya, 2017, in: http://kozfoglalkoztatatas.kormany.hu/download/4/8e/e1000/Beszamoló_2016_170713.pdf, (01.11.2017)

³⁹ 118/2001 (VI. 30.) Korm. rendelet.

(j) a service with public interest designated based on the law and contributing to the compulsory local governmental tasks.

The listed employers can employ public workers not only directly. Agricultural work can be realised in the framework of non-profit temporary agency work as well. Non-profit temporary work agency can only hire public workers for employers being ruled in the Public Employment Act. The user enterprise should employ the public worker for at least 60 days in the framework of fix - term temporary agency work.⁴⁰ The competent bureau, what is in the same county as the registered office of the temporary work agency, allows the temporary agency's work, if the general hiring conditions are created and a mentor is granted for the public worker. Non-profit temporary agency work can be seen from both positive and critical sides. In our opinion, both are necessary. The non-profit temporary agency work gives the possibility for the public worker to work, even if his/her public employer cannot give the task because of its seasonality character.⁴¹ On the other hand, it can make the position of the vulnerable group of public workers more difficult. The rules of hiring are superficial and suitable for abuse.

In case of public work, either direct relationship or temporary agency work, a system can be drawn which has lifted up a huge amount of labour force from agriculture and allows them to flow back only partially. Its reason is that people working in the framework of public employment has worked earlier as a hand or seasonal worker in the framework of illegal work in agriculture. They were noticed by the state labour market registers as an inactive group who should be reintegrated in the labour market. This has become the public employment program with several strict conditions. If somebody would like to get social benefits, the person should take part in public employment. The tasks of public employees depend on the topic of the winner employer's application. A great part of the projects is agricultural, but not all of them, so the headcount of the agricultural seasonal workers has decreased. Therefore, the affirmation that public employment has become the alternative of seasonal work and the commuters work life is questionable.⁴² The persons' freedom for choice is illusory because of the connection of public employment and social benefit system.

⁴⁰ Gáspárné Szokol Márta – Nemeskéri Gyula: A közfoglalkoztatásról, *E-Munkajog*, 2015/5, 8.

⁴¹ Nagy Sándor Ádám: Miért nem érdemlik meg a közfoglalkoztatottak a minimálbért? in: http://arsboni.blog.hu/2015/03/17/miert_nem_erdemlik_meg_a_kozfoglalkoztatottak_a_minimalbert (01.11.2017)

⁴² Koós 2013, 59.

4. The role of social cooperatives in agricultural work

The aim of social cooperatives is to create work conditions for its underprivileged members and enhance to improve their social situation in any other way.⁴³ The foundation of social cooperatives has similar goals to the public employment programs. Social cooperatives also connect to public employment in their activities. A great part of social cooperatives deals with guiding public workers to the primary labour market. So, since there are agricultural programs among public employment programs in a great number, a significant part of social cooperatives also deals with this. Agricultural production is usually motivated not by the market needs, so agricultural production programs started in subregion areas are complemented with more serious infrastructure - supported processing, or retail and wholesale. Why there are so many social cooperatives, if not the market motives them?⁴⁴ In small villages only these programs can be economical.

It is very important that public workers can be active members and founders of a social cooperative as well. The Public Employment Act includes special rules of the agricultural activities.

If the underprivileged person fulfils efficiently the training combined with agricultural public employment, and contracts to work at least 2 years as a member of the social cooperative, tools used related to the training can be hired for his own social cooperative from the public employer based on a lending contract. In these cases the Hungarian state, the local government and a public foundation can give the land, the public employer can lend livestock on the basis of a lending contract for free for the social cooperative. The social cooperative contracts to use the free land by keeping the legal rules. Cultivation cannot peril the fertility of the land. The social cooperative can use the land according to the guidelines of the earlier user.

4.1. The member's work relationship⁴⁵

People employed by social cooperatives work on the lands having been lent. The members of the social cooperative can work in the framework of typical work form, but also as member's work relationship.

⁴³ Erről bővebben lásd: Csák Csilla – Kenderes György: Hátrányos helyzetű személyek foglalkoztatási lehetőségei és annak bizonytalanságai a mezőgazdaságban, in: Homoki-Nagy Mária – Hajdú József (edit.): *Ünnepi kötet Dr. Czucz Ottó egyetemi tanár 70. születésnapjára*, Szeged, Szegedi Tudományegyetem Állam- és Jogtudományi Kar, 2016, 141-152.; Csák Csilla – Kenderes György: New organizational and employment opportunities of the multifunctional agriculture, in: Kékesi Tamás (edit.): *The Publications of the MultiScience - XXX. microCAD International Multidisciplinary Scientific Conference*, Miskolc, University of Miskolc, 2016, 1-11.; Csák Csilla – Hornyák Zsófia: Soziale Landwirtschaft – Die Tendenzen der sozialen Verantwortung in der multifunktionalen Landwirtschaft, *CEDR Journal of Rural Law*, 2/2016, 49-60.

⁴⁴ Tésits Róbert – Alpek B. Levente – Kun Antigóné: Az új típusú szociális szövetkezetek területileg eltérő foglalkoztatási szerepe, *Területi Statisztika*, 3/2015, 264.

⁴⁵ Prugberger Tamás: *A belső vagyoni és vállalkozási jogviszonyok az önkormányzati jellegű vállalatoknál*, Budapest, Szövetkezeti Kutató Intézet, 1989, 211.

This member's work relationship is a unique form of personal involvement in co-production in a direct way. The Cooperatives Act highlights that Member's work relationship is a relationship not covered by other acts on employment-related relationships, where compensation for the work performed may be provided in part or in whole by allocating a share from the assets produced by the members collectively, as commensurate for the work performed. It means that in these cases the rules of the LC are not applied. Having other labour relationships beside members work relationship is forbidden. A social cooperative may not enter into any other employment-related relationship with its member engaged under member's work relationship during the period of membership. If a member of a social cooperative who is engaged under member's work relationship enters into or maintains another employment-related relationship with another employer during the term of his membership, that member's work relationship shall be suspended during the existence of such employment-related relationship with the social cooperative. The social cooperative cannot have the relationships. It is not possible to have two different employing relationships between the social cooperative and member of it. Work is based on the partners' choice or member's work relationship. It also connects to the mission of social cooperatives what is creating working conditions for their underprivileged members, and enhancing the improvement of their social position. The member's work relation is an atypical form of employment which has conditions included in the member contract. The member's work relationship is an unnamed atypical form of employment in the LC, and characterises especially the social cooperative. Seasonality does not prevail in case of member's work relationship. According to the section 4/A (2) of the Public Employment Act, only the public worker who contracts working for the social cooperative for two years gets the tools as a loan for free.

5. Summary

Because of the diversification of agriculture, employment labour relationships vary very widely. Typical work is only a little characteristic in processing industry. In other branches seasonality determines work. However, special employment forms also characterize agriculture. One part of these belongs to the circle of employment policy and social benefits policy. Agricultural work can be both a goal and tool at the same time: goal for persons who want to be qualified agricultural worker, and tool for people who should be guided back to the primary labour market. Production is also determined by the diversity of employment. Although, the number of agricultural workers has increased, it is because of the instruments of the employment policy. The real number of agricultural workers is low. Employment programs set providing labour market service as a primary goal. To convert product to money is a secondary problem. This can be understood, since it could deform the markets. The occurrence of social cooperatives can have a negative effect on other characters of the market, such as primary producers.