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New tendencies in connection with the legal status of cohabitants and their
children in the agricultural enterprise in Hungary***

Foreword

The Hungarian national report¹ of the Commission I of the CEDR Luzern conference served as the basis of the present article. Both the report and the present article deal with a less analysed field of the Hungarian agricultural law, namely with the legal status of cohabitants and their children in the agricultural enterprise. However, this article is not merely the second published version of the report. Besides the current events, the article also includes the conclusions² of the Commission I and the assessment of these conclusions from a Hungarian point of view.

1. Work of Commission I

Commission I analyzed the legal status of cohabitants and their children in the agricultural enterprise in the common law and continental law system. The relationship between a man and woman served as a basis of the analysis of cohabitants in the national reports, though the topic includes the examination of the legal status of relationships between the same sexes. The Commission I referred to it vaguely in its Conclusions emphasizing that the recent terminology (farmer, farmwomen) should be revised, but could not come up with a factual alternative to them. As the examination of the legal status of cohabitants meant to focus on the presentation of anti discrimination legislation in favour of women, we are going to give a summary on the legal status of women and their children in the agricultural enterprise in Hungary.

The topic of the Commission I is a hot issue, as either on the European level or on national level 'gender mainstreaming' is growing. Gender mainstreaming within the European Union (EU) was firstly defined by the European Commission (COM) in 1996 (COM (96) 67 final) as:(...) *mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their*

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*** This research was supported by the European Union and the State of Hungary, co-financed by the European Social Fund in the framework of TÁMOP-4.2.4.A/ 2-11/1-2012-0001 'National Excellence Program'.

¹ Jakab Nóra – Szilágyi János Ede: *Legal status of cohabitants and their children in the agricultural enterprise*, European Congress on Rural Law – 11–14 September 2013 Lucerne (Switzerland), Commission I, in: http://www.cedr.org/congresses/luzern/pdf/Commission_I_Hongrie.pdf (01.12.2013).

² See *Conclusions* of the Commission I (president: Philippe Haymoz; general reporter: Michael Burkard), European Congress on Rural Law – 11–14 September 2013 Lucerne (Switzerland), Commission I, in: <http://www.cedr.org/congresses/luzern/luzerncom1.php> (01.12.2013).

possible effects on the respective situations of men and women (gender perspective). Generally speaking gender mainstreaming sets goals on gender equality, there has not been political declaration regarding women in the agriculture for a long time.

In 2010 the European Parliament launched a report on the role of women in agriculture and rural areas as about 42% of the 26.7 million people working regularly in agriculture in the European Union are women and at least one holding in five (around 29%) is managed by a woman. The Parliament recognized that rural areas are particularly affected by population ageing, low population density and, in some areas, depopulation. In the future, as a result of demographic change, emigration and a general decrease in the proportion of women in the population of many rural areas, it will either not be possible, with existing infrastructure, to ensure adequate local provision of goods and essential everyday services, basic medical treatment and care, pre-school education, schooling and vocational and academic education and further training or adequate cultural and leisure provision, or else the structures for such provision will collapse under economic pressures. The significant contribution made by women to local and community development is inadequately reflected in their participation in the relevant decision-making processes.³

Consequently 16 national reports were presented in Commission I (Argentina, Austria, Belgium, Finland, France, Germany, Hungary, Italy, Luxemburg, Netherlands, Norway, Poland, Spain, Switzerland, Great-Britain, USA). The Commission found a significant difference between common law systems and continental law systems. In common law systems, agricultural land and farming property is treated basically in the same way as any other real estate and movable property. In continental law systems, on the contrary, farms are preserved against partition and subsequent non-agricultural purposes of use. To that end, land laws in civil law jurisdictions prescribe different prices for the transfer of agricultural land and farming property. Legally prescribed pricing for agricultural land and farming property usually results in prices lower than prices formatted under market conditions. Such a lower price, known as net value or earning rate, facilitates the transfer of undivided farms to a single and legally privileged beneficiary, traditionally the oldest (or youngest) son of the farmer. Together with other legal provisions traditionally privileging (male) progeny, civil law systems tend to discriminate, at least indirectly, (female) cohabitees of farmers in case of death, divorce or the dissolution of life partnerships. While presenting national reports the legal analysis focused on gender issues, and it could be discerned that the endeavour to keep the farm in one hand does not take into account the multiple role of women.

Based on the findings summarised above, the Commission developed several propositions⁴ for avoiding discriminatory biases detrimental to cohabitees and their children in the agricultural enterprise, namely:

1. Clarification of terms

In the Commission, there was broad consent that traditional terms, like farmer and farmwoman, do no longer encompass the variety of modern life forms. The

³ See more in: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0016&language=EN> (17.12.2013).

⁴ See the *Conclusions*.

Commission, however, found itself unable to put forward, on its own initiative, a new terminology appropriate for all Member States of the Council of Europe. Therefore, the Commission recommends that the Council of Europe shall take over the task of developing a new terminology in order to formally modernise land laws in Europe.

2. Market value as guiding principle

As a major obstacle to equal treatment of cohabitees and their children in the agricultural enterprise in civil law jurisdictions, the Commission identified price differentiation between agricultural land and farming property priced by its net value or earning rate, on the one hand, and non-agricultural land priced by its market value, on the other hand. For this reason, the Commission recommends to restrict the application of net value, or earning rate, to the core business of farming. Peripheral businesses, such as agrotourism and direct marketing, on the other hand, shall be subject to market prices. In order to avoid speculation and land grabbing, however, the Commission proposes the implementation of flanking measures for countervailing conceivable increases of land prices.

3. New retirement arrangements

Inspired by progressive models of social security legislation, e.g. the Finnish Farmers' Pensions Act (Maatalousyrittäjän eläkelaki, MYEL 1280/2006), the Commission invites the Council of Europe and its Member States to re-evaluate social security laws concerning cohabitees and their children in the agricultural enterprise. In particular, the Commission submits the proposal that direct payments could, to a certain extent, be granted in the form of new pension schemes for cohabitees in agricultural enterprises.

4. Elimination of discriminatory fiscal effects

The Commission urges the Council of Europe and its Member States to eliminate fiscal side effects particularly affecting cohabitees in agricultural enterprises. In the first instance, the Commission identified undesirable side effects of real estate transfer taxes as potentially discriminatory to cohabitees in agricultural enterprises. However, in cases of agricultural land and property transfer, undesirable side effects may also stem from traditional social insurance schemes not satisfying the needs of cohabitees and their children in the agricultural enterprise.

5. New tax and insurance schemes

Based on a comparative analysis of models of best practice in Member States of the Council of Europe, the Commission asks for the development of progressive tax and insurance schemes meeting the needs of cohabitees and their children in the agricultural enterprise. In coordination with already existing EU programmes, e.g. the Leader+ programme, new tax and insurance schemes could provide additional building blocks for the empowerment of cohabitees, in particular women, in the agricultural enterprise.

6. Participation in decision-making

The Commission identified the right, or possibility, of cohabitants to co-determine upon the future of the farm as a soft, but critical factor. However, because of the rather socio-cultural dimension of the right to, or possibility for, co-determination in the farming context, the Commission contents itself with the emphasis on the requirement for equal decision-making power for all parties involved in the agricultural enterprise.

2. Analysis of non-agricultural aspects

2.1. Issues of constitutional law

In the Fundamental Law of Hungary, there are numerous provisions in connection with families but not especially on women in agriculture.⁵ The new Hungarian constitution entered into force on 1st January 2012 can be assessed as an utterly family-centered constitution.

In its avowal, the law-maker fixed that *“We hold that the family and the nation constitute the principal framework of our coexistence, and that our fundamental cohesive values are fidelity, faith and love.”*

Article I is an essential provision of the Fundamental Law: *“Hungary shall protect the institution of marriage as the union of a man and a woman established by voluntary decision, and the family as the basis of the nation’s survival. The basis of the family relationship is the marriage and the relationship between parents and children. Hungary shall encourage the commitment to have children. The protection of families shall be regulated by a cardinal Act.”* By virtue of Article P of the Fundamental Law, the agricultural holding act, which includes even the provisions of family homesteads, also will be regulated by a *cardinal Act*.⁶

Besides other essential rules, Article XV of the Fundamental Law includes the following: *“Women and men shall have equal rights... Hungary shall adopt special measures to protect families, children, women, the elderly and persons living with disabilities.”*⁷

By virtue of Article P of the Fundamental Law, the agricultural holding act, which includes even the provisions of family homesteads, also will be regulated by a *cardinal Act*.⁸

⁵ On the development of Hungarian family law see the following outstanding articles: Barzó Tímea: A magyar családi jog szabályozásának fejlődéstörténete, in: Miskolczi Bodnár Péter (edit.): *A civilisztika fejlődéstörténete*, Miskolc, Bíbor Kiadó, 2006, 11-46; és Barzó: A családjog és a polgári jogi kodifikáció, *Magyar Jog*, 2000/5, 288-292; Wopera Zsuzsa: A házassági perek, in: Wopera (edit.): *Polgári eljárásjog II.* Budapest, HVG-ORAC, 2013, 91-105; Wopera: *Az európai családjog kézikönyve*, Budapest, HVG-ORAC, 2012.

⁶ By virtue of Article T of the Fundamental Law, cardinal Acts shall be Acts of Parliament, the adoption and amendment of which requires a two-thirds majority of the votes of Members of Parliament present.

⁷ On the adoption and main provisions of the new Hungarian constitution, see Raisz Anikó: A Constitution’s Environment, Environment in the Constitution: Process and Background of the New Hungarian Constitution, *Est Europa – La Revue*, 2012/ Special Edition 1, 37-70.

According to Article L of the Fundamental Law, Országgyűlés adopted the above mentioned Act CCXI of 2011 on the protection of families as a cardinal Act. By the way, “*Act CCXI of 2011 has already been reviewed by the Constitutional Court in its Court Decision No. 43/2012 of December 20, 2012. and some dispositions have been found unconstitutional, among others the notion of family had to be described broader than in the original version, i.e. the notion is not only valid for the partnership of a man and a woman.*”⁹

2.2. Issues of private law

Act IV of 1959 (old Civil Code) lays down the same rules on partners in marriage and registered civil partnership in the case of succession and usufruct. Act V of 2013 (new Civil Code, coming into force on March 15, 2014) gives broader protection to the marriage partner. According to Part III Article VII. § 4:86. civil partners could apply for maintenance if the relationship ends and he/she is unable to take care of himself/herself, if they have lived together for at least 1 year and they have a common child. In Part III Article VIII. § 4:92. lays down that the partners can apply for the further use of home before the court if the relationship ends even without having concluded a contract at stake.

In connection with agriculture and the law of succession, a rule can be found in the Hungarian Civil Code in force. According to this provision concerning disclaiming inheritance,¹⁰ an heir can disclaim not the whole, but a determined part of their inheritance (i.e. the inheritance of the unit of an agricultural land and connected facilities, animals, etc.). The new Hungarian Civil Code has essentially transferred the above mentioned provision of the current Civil Code word-for-word.¹¹ By the way, it is worth mentioning that the adoption of the below mentioned agricultural holding act is scheduled; and in connection with this act, the authors of this article would endorse the adoption of special provisions concerning the inheritance of agricultural holdings.¹²

⁸ By virtue of Article T of the Fundamental Law, cardinal Acts shall be Acts of Parliament, the adoption and amendment of which requires a two-thirds majority of the votes of Members of Parliament present.

⁹ Raisz Anikó: Women in Agriculture – Country Report Hungary 2013, to appear. See Constitutional Court Decision No. 43/2012 of December 20, 2012.

¹⁰ According to § 674 of Act IV of 1959 on the Civil Code of the Republic of Hungary: (1) An heir shall be entitled to disclaim an inheritance after descent and distribution. The state, as a legal heir, shall not be entitled to disclaim an inheritance. (2) An heir shall be entitled to disclaim particularly *inheritance of a farmland and/or its equipment, accessories, livestock, and tools and implements*, if he is not engaged in agricultural production by profession.

¹¹ § 7:89 (2) of Act V of 2013 on Civil Code.

¹² As similar rules can be found in other European countries; see Prugberger Tamás: A fejlett polgári államok földtulajdoni és mezőgazdasági üzemszervezetének a XX. század agrárreformjai tükrében – az agrárjog megjelenése, in: Prugberger (edit.): *Agrárjog I.* Miskolc, Bíbor Kiadó, 1999, 81-116.

2.3. Issues of social security law and corporate law

Article XIX of the Fundamental Law lays down: “Hungary shall strive to provide social security to all of its citizens. Hungary shall promote the livelihood of the elderly by maintaining a general state pension system based on social solidarity and by allowing for the operation of voluntarily established social institutions. Eligibility for a state pension may include statutory criteria in consideration of the requirement for special protection to women.”

The protection of women can be discerned in the social security system: health insurance¹³ and pension system.¹⁴ Furthermore Act LXXXI of 1997 on the services of the pension system applies affirmative action in favour of women. Women can be retired regardless their age, if they have 40 years of service, of which 32 years must be spent in work; the rest is acknowledged for bringing up the children.¹⁵

The services in the family protections system Act LXXXI of 1998 on the protection of families are family allowance, child care allowance and benefit, mother’s benefit.

In the health care system birth benefit and child care benefit are provided to help the motherhood.

If the partners, specifically countrywomen perform agricultural activity, they are insured and are entitled for services in the social security system according to Act LXXX of 1997. To the contribution payment of farmers special rules shall apply as they pay health care and pension contribution after the minimum wage or 20% of their yearly income of the previous year.

¹³ On the Hungarian Pension system see: Gece Istvánné – Jakab Nóra – Prugberger Tamás – Tóth Hilda – Varga Zoltán: *Szociális jog II., Társadalombiztosítási jog*, Miskolc, Miskolci Egyetemi Kiadó, 2013.

¹⁴ Besides security law, even the Hungarian labour law includes special provisions concerning agricultural sector; see e.g. (on ‘household work’): Mélypataki Gábor: *Neue Formen der Beschäftigung im Agrarrecht – Die vereinfachte Beschäftigung*, *Journal of Agricultural and Environmental Law*, 2010/9, 33, 35, 37-39.

¹⁵ The reform took place according to the White Paper of the European Commission (COM (2012) 55 final). The provisions of entitlement for pensions have been changed since 2007. The aim is to secure the financial sustainability of the Hungarian Pension System and to maintain the adequacy of pension benefits. The following steps have been taken: Increase of retirement ages. This is the most important action to sustain the pension system, the increase of the retirement ages happens in compliance with the life expectancy. In the most European countries the retirement ages are not higher than in Hungary. The retirement age grows from 62 to 65 in accordance with the year of birth. Termination of security if one retires. These actions have already been taken since 2006, which motivates active people to retire voluntarily at a latest time. Condition of the retirement is to terminate the security. This influences more people because it is not sure that after the retirement one can work with the same conditions than before. Restricted access to early retirement, limitation of early retirement. Two major changes should be mentioned: reform of the disability pension system between 2007-2012, the introduction of services applied before the retirement age, and termination of pensions applied before the retirement age in 2012. See more Gece Istvánné – Jakab Nóra – Prugberger Tamás – Tóth Hilda – Varga Zoltán: *Szociális jog II. Társadalombiztosítási Jog*, Miskolc, Miskolci Egyetemi Kiadó, 2013.

There are no special rules regarding agricultural enterprise in the corporate law. Family relations have importance in the case of transfer of business shares under any legal title other than sale; in the case of devision of joint marital property and in the case of conflicts of interest on behalf of the senior officer (§ 25 and § 129 Sec. (1)-(3) of Act IV of 2006 on business associations). Legal development in the European law, international law and national law

2.4. Issues of tax law

Since 2010, a family (i.e. one or two parents of the family) can vindicate their right to, so called, *family tax allowance* after their child(ren) under Act CXVII of 1995 on Personal Income Tax (Act PIT).¹⁶ The sum of their family tax allowance can be deducted from their gross income. After this deduction, the family has to pay the tax after the rest sum of the gross income. The sum of the family allowance is 62.500 Hungarian Forint (HUF) per child up to two children, and 206.250 HUF per child over 3 children. At the time of writing of this article, the exchange rates (20.12.2013) are the following: 1€ is 298 HUF; and 1 CHF is 243 HUF.¹⁷ Between January and October 2013, the average gross earnings were 227.800 HUF in Hungary, according to the data of the Hungarian Central Statistical Office.¹⁸ According to the Act PIT provisions concerning family tax allowance, if a family has three children (i.e. the sum of their family tax allowance is 3 x 206.250 HUF = 618.750 HUF) and the common gross income of the mother and father is e.g. 818.750 HUF per month, the base of the family's tax is going to be 200.000 HUF per month (the percentage of the PIT is 16 percent for everybody). That is 32.000 HUF per month (without the family tax allowance they should pay further 99.000 HUF per month, that is 131.000 HUF per month!). At the end of 2013, the Hungarian parliament adopted new provisions concerning family tax allowance. According to these new provisions, from 2014 on, besides the 16% of the PIT, the sum of the family tax allowance can be deducted from, so called, personal contributions (i.e. from the 7% of the national insurance and the

¹⁶ Act PIT, § 29/A-29/B. On the rural tax law, see furthermore Nagy Zoltán: Az agrárszektor adójogi szabályozása, in: Csák Csilla (edit.): *Agrárjog*, II. volume, Miskolc, Novotni Publisher, 2005, 188-205; Nagy Zoltán: Az agrárszektor adójogi szabályozása, in: Csák (edit.): *Agrárjog*, Miskolc, Novotni Publisher, 2006, 309-326; Nagy Zoltán: Az agrárszektor különleges adójogi szabályozásának alapkérdései, in: Csák (edit.): *Agrárjog*, Miskolc, Novotni Publisher, 2008, 306-322; Nagy Zoltán: Az agrárium adójogi szabályozása, in: Csák (edit.): *Agrárjog*, Miskolc, Novotni Publisher, 2010, 315-335; Nagy Zoltán: A mezőgazdasági tevékenységet végzők adójogi szabályozása egyes jövedelemadóknál, *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Miskolc University Press, Miskolc, Tomus XXIII/2 (ann. 2005), 333-349; 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, *Journal of Agricultural and Environmental Law*, 2012/12, 123-124; Olajos István – Raisz Anikó: The Hungarian National Report on Scientific and Practical Development of Rural Law in the EU, in States and Regions and in the WTO, *Journal of Agricultural and Environmental Law*, 2010/8, 45-46; etc.

¹⁷ According to the website of the central bank of Hungary, in: <http://www.mnb.hu/arfolyamok> (20.12.2013).

¹⁸ In: <http://www.ksh.hu/docs/hun/xftp/gyor/let/let21310.pdf> (19.12.2013).

10% of the superannuation contribution) as well. As regards these amendments, families with lower income have got an opportunity to recourse to family tax allowance to a greater extent.

2.5. Development of European law, international law and Hungarian national law

Furthermore we are going to present the main points regulating the legal status of women in the European Law, international and national law.

2.5.1. European law

In European law the regulation on gender equality is based on more actions. The goals are reached by regulation based on directives and by open method of coordination.¹⁹ The European law focuses on equal treatment of women generally and specifically at work and the workplace. This is a significant part of the European Union's employment and social policy, which is based on equal treatment directives and on policies of the EU.²⁰

Article 126 of the Treaty of Amsterdam declared employment a common matter of interest and promoted a harmonized employment strategy in the Member States. In 1998 the European Employment Strategy consisted of four pillars: improve employability, create new culture of entrepreneurship, to promote and encourage the adaptability of firms and their workers, to strengthen equal opportunities policies. The Lisbon Summit strengthened the gender dimension of the European Employment Strategy in March, 2000 declaring that *Member States shall put forward actions so that the gender dimension shall be fit in all pillars*. Because of the weak economic growth and insufficient job creation in 2005 the European Council decided to link together the European Employment Strategy and the economic guidelines. Gender mainstreaming remained general principle in the Preamble of guidelines.²¹

¹⁹ On the open method of coordination see more: Juhász Gábor: A szociális védelem megújítása az Európai Unió szociálpolitikai programjában, *Esély*, 2004/2, 62-83.

²⁰ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) See Strategy for equality between women and men 2010-2015, Roadmap for equality between women and men (2006-2010), Fifth Community Action Programme on Equal Opportunities (2001-2006).

²¹ Article 182 of the Treaty of Amsterdam lays down that the European Commission on the recommendation of the European Council shall adopt guidelines on a yearly basis; to achieve them the Member States shall adopt national action plans. These plans are going to be revised by the Commission in a common employability report and will be presented before the Council with the new guidelines of the next year. See more Frey Mária: *Nemzeti Akcióprogram a növekedésért és foglalkoztatásért. Magyarország Lisszaboni Akcióprogramja foglalkoztatási fejezetének és előrehaladási*

2.5.2. International law

The latest concluding observations²² of the Committee on the Elimination of Discrimination against Women (CEDAW) on Hungary from 2007 even mentions the problems of rural women and asks for measures for their benefit. In its point 27,²³ the document expressly addresses labour issues: asks for the further close observation of the situation of women in the fields of employment and work in rural areas as well as for the effective implementation of legislative provisions on equal pay for work of equal value and on equal opportunities in employment – corresponding to the above described problems. The Committee expresses its concerns about the limited information on the situation of rural women in many regards and asks for a comprehensive picture of the *de facto* situation of rural women in all areas covered by the Convention in the next report (points 32 and 33).²⁴ Furthermore, and it mirrors for instance in the above often mentioned NHRDP, it urges the state to ensure that a gender perspective is integrated in all rural development policies and plans.²⁵ At it was mentioned above NHRDP admits that great attention must be paid to women, with special regard to female farmers.

2.5.3. National law

In this part we are going to present the Hungarian legal regulation on gender equality in the light of the European and international law.

jelentéseinek értékelése a nők és férfiak egyenlősége érvényre juttatásának szempontjából. Budapest, 2008, 2-5., Jakab Nóra – Prugberger Tamás: *A foglalkoztatás elősegítés és igazgatás joga*, Miskolc, Bíbor Kiadó, 2013. Frey 2009, 27-30.

²² Concluding comments of the Committee on the Elimination of Discrimination against Women: Hungary, 10 August 2007, CEDAW/C/HUN/CO/6.

²³ 27. *The Committee recommends that efforts be strengthened to eliminate occupational segregation, both horizontal and vertical, and to adopt measures to narrow and close the wage gap between women and men by applying job evaluation schemes in the public sector connected with wage increases in sectors dominated by women. It also recommends that efforts be strengthened to ensure women's access to vocational training in all sectors. The Committee urges the State party to ensure the effective implementation of legislative provisions, including those in the Labour Code, on equal pay for work of equal value and on equal opportunities in employment. The Committee requests the State party to provide in its next report detailed information, including statistical data indicating trends over time, about the situation of women in the fields of employment and work in urban and rural areas and in the public, private, formal and informal sectors and about the impact of measures taken to realize equal opportunities for women. The Committee reiterates its recommendation that measures allowing for the reconciliation of family and professional responsibilities be strengthened and that the sharing of domestic and family tasks between women and men be promoted.*

²⁴ 32. *The Committee remains concerned about the limited information on the situation of rural women, including their access to adequate health-care services, education, credit, social security and other facilities, and their participation in decision-making.* 33. *The Committee requests the State party to provide, in its next report, a comprehensive picture of the de facto situation of rural women in all areas covered by the Convention. It calls on the State party to ensure that a gender perspective is integrated in all rural development policies and plans.*

²⁵ Raisz Anikó: Women in Agriculture – Country Report Hungary to appear. Frey Mária has already drawn the attention to the shortage of data in: Frey 2008, 43.

The Fundamental law in force since 1 January, 2012 provides special protection to the family, especially to women and children.

In national law the employment of women in general is at focus. The New Hungary Rural Development Programme (2007-2013) (it is the basis of the current rural development supports from the EU; hereinafter referred to as NHRDP)²⁶ admits that *great attention must be paid to women, with special regard to female farmers*. It is essential not only from a social, but also from an economic point of view, as many of the elderly – as we could see, in majority female – farmers are unable to conduct competitive production meeting the requirements of the European Union, mainly due to the loss-producing, fragmented holding structure.²⁷

The countrywomen performing agricultural activity are insured and are entitled for services in the social security system according to Act LXXX of 1997. To the contribution payment of farmers special rules shall apply. Women in the agricultural enterprise are treated favorably to men as they can retire before the retirement age. This is based upon Article XIX Section 4 of the Fundamental Law.

In the Hungarian regulation equal treatment and employment of women, the coherence of the family and work life is an issue of employment in a broader sense, which is guided by the Labour Code, Fundamental Law and Act CXXIII of 2004.

According to Article XV of the Fundamental law: *“Hungary shall ensure fundamental rights to every person without any discrimination on the grounds of race, colour, gender, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever. Women and men shall have equal rights.”*

According to §§ 5 and 8/B of Act CXXIII of 2004 employment of mothers after the parental leave are supported by the state by means of state subsidies and tax decrease This is in compliance with the European Union’s requirements also.

The new Labour Code (in force since 1 July, 2012) takes into account the needs of pregnant women and single parents. In the course of pregnancy the woman shall inform the employer as soon as possible, because by doing this she place herself under labour law protection (§ 65 Sec 3 of the Labour Code). § 60 Sec 1 lays down *an employee shall be offered a job fitting for her state of health if considered unable to work in her original position according to a medical opinion from the time her pregnancy is diagnosed until her child reaches one year of age. The pregnant worker shall be discharged from work duty if no position appropriate for her medical condition is available*. Furthermore employers shall inform their workers concerning the following opportunities full or part-time work, or teleworking. Employers shall respond to the proposition of workers for the amendment of their employment contracts within fifteen days in writing. (§ 61 of the Labour Code)

²⁶ *New Hungary Rural Development Programme (2007-2013)*. Budapest, December 2009, version 5, amendments according to EERP and CAP HC; (hereinafter referred to as NHRDP), in: http://www.fvm.gov.hu/doc/upload/201003/nhrdp_v5_2009.pdf (04.01.2013). For further reading see Frey Mária: *Nők és férfiak a munkaerőpiacon – a Lisszaboni Növekedési és Foglalkoztatási Stratégia céljainak a tükrében*. In: Nagy, Ildikó – Pongrácz, Tiborné (ed.): *Szerepváltozások. Jelentés a nők és férfiak helyzetéről 2009*. Budapest, TÁRKI – Szociális és Munkaügyi Minisztérium, , 2009, 27-51.

²⁷ NHRDP, 33. See the excellent writing of Raisz Anikó *Women in Agriculture – Country Report Hungary, 2013*, to appear.

According to § 53 of the Labour Code an employee may not be transferred to work at another location without the employee's consent from the time her pregnancy is diagnosed until her child reaches three years of age; until the child reaches sixteen years of age, if a single parent.

§ 113 of the Labour Code defines that provisions on working time and rest periods shall apply subject to the exceptions in the case of the employee's pregnancy is diagnosed from that time until her child reaches three years of age; until the child reaches three years of age, if a single parent. In these cases an irregular work schedule may be used only upon the employee's consent; weekly rest days may not be allocated irregularly; overtime work or stand-by duty cannot be ordered.

§ 12 of the Labour Code declares that in connection with employment relationships, such as the remuneration of work, the principle of equal treatment must be strictly observed. Remedying the consequences of any breach of this requirement may not result in any violation of, or harm to, the rights of other workers. According to the practice of the Court of the European Union the equal value of work for the purposes of the principle of equal treatment shall be determined based on the nature of the work performed, its quality and quantity, working conditions, the required vocational training, physical or intellectual efforts expended, experience, responsibilities and labor market conditions.

Consequently in the national legislation the pillars of the gender equality are the Fundamental Law, the Labour Code, Act CXXV of 2003 on the equal treatment and Act CXXIII of 2004. Besides it is very important to emphasize the disadvantaged situation of women in the agriculture and to take them into account in the rural development policy.

The status of women in the agriculture are framed by the Fundamental Law, NHRDP, and the National Family Action Plan. The main field of anti discrimination legislation is employment.

Training should be connected to employment. The priorities in the National Lisbon Action Plan regarding equality between men and women are restricted. This approach does not emerge in the education and training.²⁸ The Hungarian employment policy is based on Act IV of 1991 on the promotion of employment and services of unemployed. Training, counseling, maintenance of work and workplace are active measures of the employment policy including the promotion of self-employment of unemployed women. Self employment has recently grown among women.²⁹ Trainings focus on disadvantaged women.³⁰

²⁸ Frey 2008, 27-35.

²⁹ See HEFOP 1.3. project on the support of women's employment and their placement at work which aimed to promote employment and self-employment by trainings, in: Frey 2008, 17, 29. See EQUAL programs and their results in Borbély Szilvia: *A nők és a férfiak esélyegyenlőségének elősegítése a felnőttképzésben*, Békéscsaba, 2008. See also HEFOP 1.3. program, in: Frey 2008, 41-45.

³⁰ See EQUAL programs and their results in Borbély Szilvia: *A nők és a férfiak esélyegyenlőségének elősegítése a felnőttképzésben*, Békéscsaba, 2008. See also HEFOP 1.3. program, in Frey: Op. cit. 2008, 41-45.

Gender mainstreaming (see under) does not emerge in equal treatment regulation regarding the participation in organizations and politics.³¹ Women's civil organizations are pioneers, and suffer from financial, cooperational and organizational deficiencies.³² In 2004 women's representation was 9,8% in the Parliament, and 12% in the government. Therefore it can be stated that Hungary is behind with promoting women's participation in public life.³³

The law employability rates are in strong connection with the limited expansion of part time work. This is one reason that the rate of women with a child working is much less than the average EU 27. Neither are the child care services easily accessible. The compound of women according to sectors and employment differs considerably from men's. Amongst the women's jobs there are many effortful ones. Contrary to this, in man-like-jobs men are paid better than women compared to rather woman-like-jobs. Amongst well paid managers there are more men than women, though the less amount of money results in less amount services, including pension.³⁴

It is a question if gender mainstreaming is realized in Hungary. In the National Lisbon Action Plan there are only a few priorities on gender equality. This approach does not emerge in the education, vocational training. If the action is not a 'woman' specified one, the indicators do not prescribe gender differentiation. Consequently roma and disabled people can not be examined by gender. This one-dimension-thinking is applicable in the case of other disadvantaged groups, like elderly and young people. Effect of labour market policies can not be examined because of the shortage of data collection. If there is data, in most of the cases gender as indicator has not been applied.³⁵

3. Agricultural law's aspects

Taking into consideration the European comparative law project, which is the background of the present article, two fields of the Hungarian agricultural law were analysed below. On the one hand, the legislation of agricultural and rural development supports, on the other hand, the provisions of the Hungarian land law were assessed.

3.1. Subsidy law

As regards the topic of the present article, besides numerous other non-mentioned supports, it is worth stressing the following two groups of agricultural and rural development supports. The first group typically focuses on the young agricultural

³¹ Ilonszki Gabriella: Nők a politikában: Az Európai Unió és Magyarország, in: Nagy Ildikó – Pongrácz Tiborné Tóth István György (szerk.): *Szerepváltozások. Jelentés a nők és férfiak helyzetéről*, Budapest, TÁRKI, Ifjúsági, Családügyi, Szociális és Esélyegyenlőségi Minisztérium, 2005, in: <http://www.tarki.hu/adatbank-h/kutjel/pdf/a965.pdf> (22.05.2013.), 57-69.

³² Lévai Katalin – Kiss Róbert: *Nők a közéletben*, in: <http://www.tarki.hu/adatbank-h/nok/szerepvalt/levai-kiss97.html> (22.05.2013.)

³³ Ilonszki 2005, 64, 66.

³⁴ Frey 2008, 49.

³⁵ Frey 2009, 2, 43.

producers (and so indirectly on young couples) and the second group concentrates on the employment of women.

I. *Support of the transfer of agricultural holdings to agricultural producers*³⁶ and *support for the start of young agricultural producers*:³⁷ These supports – financed from the European Agricultural Fund for Rural Development (hereinafter referred to as EAFRD) – can play an important role in the life of a young couple working in the agricultural sector. Although direct beneficiaries of these supports are not couples (or families), but young agricultural producers (under the age of 40), it is unquestionable that these kinds of supports help the early life of whole families.

II. *The promotion of the employment of women* from the rural development supports are financed from the EAFRD.³⁸ As to these supports, the promotion of the employment of women brings extra points during the evaluation of the given support application. These supports are *inter alia*: the purchase of machinery and technological equipment,³⁹ the modernization of animal farms,⁴⁰ the establishment of the plantation of perennial, non-arboreal energy crops,⁴¹ the establishment of arboreal plantations of short rotation coppice for energy production,⁴² the establishment and modernization of plantations,⁴³ the production of renewable energy for agricultural use,⁴⁴ the modernization of horticulture,⁴⁵ the purchase of machinery and technological equipment in horticulture,⁴⁶ investments in amelioration, the development of irrigation and water-management facilities,⁴⁷ the modernization of crop production facilities,⁴⁸ the value increase of agricultural products,⁴⁹ the development and modernization of the machinery in forestry,⁵⁰ the establishment of holdings producing vegetable-based crude oil and crude alcohol for non-agricultural purpose,⁵¹ the forming and operation of integrated public and service opportunities in connection with basic services for the rural economy and population,⁵² the development of agricultural roads,⁵³ the establishment of modern plantations and the modernization of plantations in

³⁶ Decree 121/2012 (XI.28.) of the Minister for Rural Development.

³⁷ Decree 57/2012 (VI.21.) of the Minister for Rural Development.

³⁸ In connection with this group of supports, we applied the outstanding research of *Anikó Raisz*. See Raisz Anikó: Women in Agriculture – Country Report Hungary, to appear.

³⁹ Decree 26/2007 (IV.17.) of the Minister for Agriculture and Rural Development.

⁴⁰ Decree 27/2007 (IV.17.) of the Minister for Agriculture and Rural Development and decree 61/2012 (VI.29.) of the Minister for Rural Development.

⁴¹ Decree 71/2007 (VII.27.) of the Minister for Agriculture and Rural Development.

⁴² Decree 72/2007 (VII.27.) of the Minister for Agriculture and Rural Development.

⁴³ Decree 75/2007 (VII.27.) of the Minister for Agriculture and Rural Development.

⁴⁴ Decree 78/2007 (VII.30.) of the Minister for Agriculture and Rural Development.

⁴⁵ Decree 25/2008 (III.7.) of the Minister for Agriculture and Rural Development and decree 103/2011 (IX.8.) of the Minister for Rural Development.

⁴⁶ Decree 26/2008 (III.7.) of the Minister for Agriculture and Rural Development.

⁴⁷ Decree 34/2008 (III.27.) of the Minister for Agriculture and Rural Development.

⁴⁸ Decree 35/2008 (III.27.) of the Minister for Agriculture and Rural Development.

⁴⁹ Decree 47/2008 (IV.17.) of the Minister for Agriculture and Rural Development.

⁵⁰ Decree 144/2008 (XI.7.) of the Minister for Agriculture and Rural Development.

⁵¹ Decree 44/2009 (IV.11.) of the Minister for Agriculture and Rural Development.

⁵² Decree 112/2009 (VIII.29.) of the Minister for Agriculture and Rural Development.

⁵³ Decree 125/2009 (IX.29.) of the Minister for Agriculture and Rural Development.

horticulture,⁵⁴ the modernization and establishment of horticultural plantations,⁵⁵ the modernization of poultry farms,⁵⁶ silvicultural measures in the young forests,⁵⁷ etc. In connection with this group of supports, it is worth referring to the survey of the Hungarian Central Statistical Office. According to this survey, 52,1 percent of women aged between 15-64 worked in 2012; the Hungarian Central Statistical Office measured similarly high employment rate only in 1992.⁵⁸

3.2. Issues of land law and tenancy

As far as the Hungarian land law and tenancy are concerned, nowadays these areas undergo a great transformation.⁵⁹ First, the new Hungarian land transfer act is analysed; second, this article focuses on the demographic land program of Hungary.

I. At the end of June 2013, the Hungarian parliament (called *Országgyűlés*) adopted a new law concerning *transfer of agricultural lands and lands of forestry*⁶⁰ (hereinafter

⁵⁴ Decree 35/2010 (IV.9.) of the Minister for Agriculture and Rural Development.

⁵⁵ Decree 55/2011 (VI.10.) of the Minister for Rural Development.

⁵⁶ Decree 78/2011 (VIII.3.) of the Minister for Rural Development.

⁵⁷ Decree 25/2012 (III.20.) of the Minister for Rural Development.

⁵⁸ Húsz éves csúcson a női foglalkoztatási ráta, in: <http://www.kormany.hu/hu/nemzetgazdasagi-miniszterium/hirek/husz-eves-csucson-a-noi-foglalkoztatasi-rata> (10.11.2013).

⁵⁹ On the antecedents of the Hungarian land law, see Csák Csilla: The changes in the circumstances of arable land's ownership and land tenure from the time of the democratic transformation to our days, *Journal of Agricultural and Environmental Law*, 2007/2, 3-18; Kurucz Mihály: Critical analyses of arable land regulation in Hungary, *Journal of Agricultural and Environmental Law*, 2007/3, 17-47; Tanka Endre: Draft amendment of the Act LV of 1994 on arable land by the proposal of the Ministry of Agriculture and Rural Development and the Ministry of Justice and Law Enforcement (no. 41123/4/2007), *Journal of Agricultural and Environmental Law*, 2007/4, 42-49; Tanka: Why has the general land consolidation no chance in Hungary?, *Journal of Agricultural and Environmental Law*, 2006/1, 23-28; Bobvos Pál: A földtulajdon és a földhasználat szerkezetének átalakítása hazánkban, *Acta Universitatis Szegediensis Acta Juridica et Politica*, 1994/2, 1-20; Bobvos: A magánszemélyeket érintő termőföld-tulajdonszerzési korlátozások, *Magyar Jog*, 1988/7-8, 636-646; Fodor László: *Agrárjog*, Debrecen, Debreceni Egyetem Kossuth Egyetemi Kiadó, 2005, 58-70; Tanka: A termőföld-védelem történeti és jelenbeli alapkérdései, *Allam és Igazgatás*, 1981/2, 140-152; Tanka: Törekvések a szövetkezeti földviszonyok jogi korszerűsítésére. *Magyar Jog*, 1990/3, 239-245; Vass, János: Termőföld magántulajdon és földhasználat, *Magyar Jog*, 1993/11; see Csák (edit.): *Aktuelle Herausforderungen der europäischen Regulierung über den landwirtschaftlichen Boden*, Miskolc, Novotni Kiadó, 2010 and from the papers in this volume see especially the papers of the following authors: Andréka (pp. 7-20), Bezdán (pp. 21-36), Bobvos (pp. 37-50), Csák (pp. 69-80), Erdős (pp. 81-90), Farkas Csamangó (pp. 91-106), Farkané Molnár (pp. 107-114), Fodor (pp. 115-130), Hegyes (pp. 131-138), Kurucz (pp. 151-176), Miklós (pp. 177-186), Nagy Zoltán (pp. 187-198), Olajos (pp. 199-210), Prugberger (pp. 211-240), Raisz (pp. 241-254), Szilágyi János Ede (pp. 269-282), Tanka (pp. 283-303). See furthermore Olajos: A termőföldről szóló törvény módosítása – avagy mi fér bele a száz napba?, *Napi Jogász*, 2002/8, 8-12; Olajos: A termőföldről szóló törvény változásai a kormányváltások következtében: gazdasági eredményesség és politikai öncélúság, *Napi Jogász*, 2002/10, 13-17; Olajos: Termőföldbirtoklás, hasznosítás és forgalmazás a családi gazdaság elősegítésének új jogi szabályozása tükrében, *Magyar Jog*, 2002/5, 286-295.

referred to as 'land transfer act' or 'LTA'). The land transfer act entering into force progressively (between December 15, 2013 and May 1, 2014) comprises essential provisions regarding family homestead, family estate farmer, close relatives, young farmer and beginner farmer. But before a detailed assessment of these provisions, it is worth noting that the land transfer act is merely one act of the new Hungarian land law regime.⁶¹ Besides the land transfer act two related other acts, the act on agricultural holding (hereinafter referred to as 'agricultural holding act') and the act on integrated agricultural production organization (hereinafter referred to as 'production organization act') would be adopted in Hungary expectedly in the not so far future. These two other laws will likely change the rules on the transfer of agricultural lands not just basically but also in the principles.⁶²

As regards the land transfer act, the main reason of the LTA's adoption was that the current law which is still in force at the time of the writing of the present article (i.e. Act LV of 1994 on arable lands; hereinafter referred to as AAL) is not compatible with the EU law.⁶³ Namely, some of the AAL provisions discriminate against EU

⁶⁰ Act CXXII of 2013 on *transfer of agricultural lands and lands of forestry* (LTA). See on the analysis of the new act: Csák Csilla – Hornyák Zsófia: *Az új földforgalmi törvényről, Őstermelő*, 2013/4, 7-10; Csák – Hornyák: *Az átalakuló mezőgazdasági földszabályozás, Advocat*, to appear; Nagy Zoltán – Olajos István – Szilágyi Szabolcs: *Scientific and practical development of rural law in the EU, in States and regions and in the WTO*, European Congress on Rural Law – 11–14 September 2013 Lucerne (Switzerland), Commission III, 9-11, in: http://www.cedr.org/congresses/luzern/pdf/Commission_III_Hongrie.pdf (01.12.2013); Olajos: *A termőföldek használata az erdő és mezőgazdasági földek forgalmáról szóló 2013. évi CXXII. törvény alapján*, to appear.

⁶¹ On the antecedents of the new Hungarian land law regime, see furthermore Csák Csilla – Szilágyi János Ede: *Legislative tendencies of land ownership acquisition in Hungary*, in: Roland Norer – Gottfried Holzer (Hrsg.): *Agrarrecht Jahrbuch 2013*. Wien – Graz, Neuer Wissenschaftlicher Verlag, 2013, 215-226; furthermore Alvincz József: *A földügyi szabályozás téves értelmezése, avagy hiteltelen írás a Hitelben, Hitel*, 2013/június, 111-121; Holló Klaudia: *A termőföldről szóló 1994. évi LV. törvény, valamint a mező- és erdőgazdasági földek forgalmáról szóló T/7979. számú törvényjavaslat egyes rendelkezéseinek összehasonlító elemzése, Themis*, 2013/June, 111-140; Tanka: *Történelmi alulnézet a magyar posztoszocialista földviszonyok neoliberális diktátum szerinti átalakításáról, Hitel*, 2013/január, 109-136; Tanka: *Egy megélhetési Hitel-rontó portréja és a földforgalmi törvény, Hitel*, 2013/július, 98-111; Zsohár András: *A termőföldről szóló törvény módosításának problémái, Gazdaság és Jog*, 2013/4, 23-24.

⁶² See some details (on the probable rules of the agricultural holding act and production organisation act) in the published concept of land law ('*Working paper of the land law – Protecting the Hungarian lands*'), hereinafter referred to as CLL.⁶² The CLL appeared on the homepage of the Government on May 30, 2012. The CLL may be downloaded from (21/03/2013): <http://ujfoldtorveny.kormany.hu/a-magyar-fold-vedelmeben>.

⁶³ On the relationship between the Hungarian land law and the EU law, see Szilágyi János Ede: *The Accession Treaties of the New Member States and the national legislations, particularly the Hungarian law, concerning the ownership of agricultural land, Journal of Agricultural and Environmental Law*, 2010/9, 49-50; See furthermore Kecskés László – Szécsényi László: *A termőföldről szóló 1994. évi LV. törvény 6. §-a a nemzetközi jog és az EK-jog fényében, Magyar Jog*, 1997/12, 721-729; Korom Ágoston: *Az uniós jog végrehajtásával kapcsolatos elméleti, és gyakorlati problémák – A bírósági aktusokból eredő tagállami felelősség*, PhD thesis, Károli Gáspár University of the Reformed Church of Hungary, Budapest, 2012; Korom: *A termőföldek külföldiek általi vásárlására vonatkozó 'moratórium' lejártát követően milyen birtokpolitikát tesz lehetővé a*

citizens on the ground of their nationality and these provisions are against the principles of the EU law (especially the free movement of capital and the free movement of persons). After the accession to the EU, Hungary could/can maintain this discriminative legislation because of its Accession Treaty. According to the Accession Treaty of Hungary: “*Hungary may maintain in force for seven years from the date of accession the prohibitions laid down in its legislation existing at the time of signature of this Act on the acquisition of agricultural land by natural persons who are non-residents or non-nationals of Hungary and by legal persons.*”⁶⁴ By virtue of the Accession Treaty, Hungary could extend this seven-year-long transitional period in 2010 for three further years (i.e. until April 30, 2014).⁶⁵

Besides the provisions providing the same opportunity for EU-citizens as for Hungarian citizens to acquire ownership of Hungarian agricultural lands, the new LTA has other new provisions in comparison with the AAL. The Hungarian parliament changed the restrictions concerning the *permissible size(s) of agricultural lands* (these limits are expressed in hectares) up to which Hungarian citizens and other EU member states’ citizens may acquire the ownership of agricultural land (ownership-limit) or may have the usage of agricultural land (usage-limit). In general terms, the ownership-limit for farmers is 300 hectares and the usage-limit for farmers and agricultural organisations is 1200 hectares (1800 hectares if the purpose of the usage is raising animals or growing seeds [sowings]). According to the LTA, the person who would like to acquire the ownership of agricultural land shall announce on their various relations (e.g. they are about to use the agricultural land themselves; they are going to fulfil the requirement concerning compulsory utilization of agricultural land; they do not have any debt in connection with the rent of an agricultural land). By virtue of the LTA, the Hungarian agricultural authority shall approve the contracts (concerning e.g. sales, leaseholds) and other forms of ownership acquisition. In connection with contracts aiming at the acquisition of agricultural land, the local land committees (which include the representatives of local farmers and agricultural organisations) are also entitled to approve these contracts (and other forms of ownership acquisition as well). The pre-emptive right (in German: *Vorkaufsrecht*)⁶⁶ (in connection with the sale of an agricultural

közösségi jog, *Európai Jog*, 2009/6, 7-16; Korom: A földpiacra vonatkozó kettős jogalap tételeinek bírálata, *Magyar Jog*, 2011/3, 152-159; Prugberger, Reflexiók „A termőföldről szóló 1994:LV. tv. 6. §-a a nemzetközi jog és az EU-jog fényében” c. fórumcikkhez, *Magyar Jog*, 1998/5, 276-287.

⁶⁴ See the Accession Treaty of the New Member States of 2004 and also point 3 (on the free movement of capital) of the Annex X (on Hungary) of this Accession Treaty.

⁶⁵ See Resolution 2/2010 (II.18.) of Országgyűlés on the necessity of the extension of the transitional period concerning the restriction of the acquisition of agricultural land by non-Hungarian natural and legal persons; and the European Commission’s Decision 2010/792/EU of December 20, 2010 (in which the EU Commission extended the ad interim period for the acquisition of agricultural lands in Hungary).

⁶⁶ On the definition of the pre-emptive right, see Section 373 of Act IV of 1959 on the Hungarian Civil Code: “*If an owner grants a right of preemption to a specific thing in a written agreement and wishes to sell the thing, he shall notify the person who has the right of preemption of the offer he has received before he concludes the contract. If the person with the right of preemption issues a statement of acceptance to the owner regarding the conditions of the offer, the contract shall be deemed concluded between them. If the beneficiary fails to*

land) and the right of first refusal (in German: *Vorpachtrecht*) (in connection with the leasehold of an agricultural land) are essential parts of the new land transfer act.⁶⁷

As far as the topic of the present article is concerned, the family homesteads have an emphasized status in the LTA. According to the LTA,⁶⁸ the definition of the *family homestead* is the following: it is a specific agricultural holding which is registered by the Hungarian agricultural authority as family homestead. In connection with the definition of family homestead, it is worth mentioning two other definitions of the LTA. The first is the definition of the agricultural holding (in German: *Betrieb*).⁶⁹ By virtue of the LTA, the *agricultural holding* as the complex of different property elements (e.g. agricultural land, agricultural facilities, other property elements) is a farming and organisational unit of the agricultural activities for the same purpose. The second connecting definition is about the *family estate farmer*. He/she (i.e. private person) is the manager of the family homestead. By the way, the definition of the *members of a farming family* includes a relatively wide personal group; i.e.: family estate farmer, and their spouse, common-law spouses (or civil partners),⁷⁰ underage children and grandchildren, furthermore the registered full age children, parents, grandparents, siblings; under LTA, the category of 'child' may even mean an adopted or foster child. According to the LTA, the family estate farmers and the members of farming families have a privileged position in the order of persons entitled to have pre-emptive rights or rights of first refusal.⁷¹ Similarly to the detailed provisions of the agricultural holdings, even the detailed rules of family homestead would be in the agricultural holding act.

Close relatives also have special status by virtue of the LTA. But first of all, it has to be emphasized that under the LTA the category of close relatives⁷² (which includes spouse, next of kin, adopted children, stepchildren, foster children, adoptive parents, stepparents, foster parents and siblings) does not comprise the common-law spouses (similarly to the *new* Civil Code of Hungary⁷³ which enters into force in March 15, 2014). By virtue of the LTA, only *farmers* (i.e. agricultural producers who are

issue a statement within the period generally established for acceptance of a proposal, the owner shall be entitled to sell the thing according to the offer or under better terms. The provisions on the right of preemption shall also be applied to rights of preemption based on legal regulation."

⁶⁷ On the pre-emptive right and the right of first refusal by virtue of the AAL, see Leszkoven László: A termőföldet érintő elővásárlási jog egyes kérdései, *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Tomus XXII (2004), 393-403; Olajos: A 2002. február 22-én hatályba lépő termőföld adásvételéhez kapcsolódó elővásárlási és elő-haszonbérleti jog gyakorlásáról, *Napi Jogász*, 2002/4, 7-12.

⁶⁸ LTA, § 5.

⁶⁹ On the possible dimensions of the Hungarian agricultural holding legislation, see Kurucz: Gondolatok a termőföldjog szabályozás kereteiről és feltételeiről, *Geodézia és Kartográfia*, 2008/9, 13-22; Kurucz: Gondolatok a termőföldjog szabályozás kereteiről és feltételeiről – part II, *Geodézia és Kartográfia*, 2008/10, 3-9; Kurucz: Gondolatok a termőföldjog szabályozás kereteiről és feltételeiről – part III, *Geodézia és Kartográfia*, 2008/11, 10-17; Kurucz: Gondolatok egy üzemszabályozási törvény indoklásáról, *Gazdálkodás*, 2012/2, 118-136.

⁷⁰ Common-law spouses (or civil partners) shall be construed as two unmarried persons living together in an emotional and financial community in the same household.

⁷¹ LTA, § 18 (4) and § 46 (4).

⁷² LTA, § 5.

⁷³ Act V of 2013 on Civil Code.

Hungarian and EU member states' citizens) can acquire the ownership of an agricultural land up to 300 hectares. Other Hungarian and EU member states' citizens can acquire the ownership of agricultural land up to 1 hectare; except for the (non-farmer) Hungarian and EU member states' citizens, who may acquire the ownership of agricultural land from their close relatives (up to 300 hectares).⁷⁴ Under the LTA, close relatives can acquire the ownership of an agricultural land by virtue of the legal title of donation; besides close relatives, only the Hungarian state, local governments and established churches may acquire the ownership of agricultural lands by virtue of the legal title of donation.⁷⁵ According to the LTA, the provisions concerning the pre-emptive right and the right to first refusal are not applied in the case of contracts among close relatives.⁷⁶ The approval of the agricultural authority is not necessary if the transfer of ownership of agricultural lands happens among close relatives.⁷⁷ Similarly, the approval is unnecessary in case the farmer leases the agricultural land to their close relatives.⁷⁸ According to the LTA, usufruct can be established by a contract merely for close relatives; the establishment of usufruct by contract for others shall be deemed null and void.⁷⁹

Last but not least, the LTA comprises special provisions concerning young farmers⁸⁰ and beginner farmers.⁸¹ According to the LTA, young farmers and beginner farmers have a privileged position in the order of persons entitled to have pre-emptive rights or rights of first refusal.⁸²

II. The demographic land program is an emphasized strategy issue of the new 'National Rural Development Strategy 2012-2020' (its subtitle: 'The constitution of the Hungarian countryside'; hereinafter referred to as NRDS).⁸³ The other name of this demographic land program is the '*comprehensive career model for young farmers*'. Important factor of the career model is that it makes it possible for young agricultural producers to receive land from the National Land Fund. On the basis of the NRDS, the Hungarian government decided to start a demographical land programme, in the frame of which they aim at ameliorating the demographic situation and a change of generations in agriculture with the long-term (25-50 years) lease of arable lands and other measures. In the frame of inheritable leasing rights, young couples wanting to work in agriculture can receive lands, if this young family (a) settles there, (b) pursues sustainable agricultural activity, and (c) obliges themselves to give birth to and raise at

⁷⁴ LTA, § 10 (3).

⁷⁵ LTA, § 12 (2).

⁷⁶ LTA, § 20 and § 48 (1).

⁷⁷ LTA, § 36 (1).

⁷⁸ LTA, § 59 (1).

⁷⁹ LTA, § 37 (1). See furthermore LTA, § 13 (2) and § 42 (2).

⁸⁰ LTA, § 5.

⁸¹ LTA, § 5. See furthermore LTA, § 3 (2), § 15, § 42 (4).

⁸² LTA, § 18 (4) and § 46 (4).

⁸³ *Nemzeti Vidékstratégia 2012-2020*, Budapest, March 2012, composed the Ministry of Rural Development, accepted by the Hungarian Government; see Governmental Resolution No. 1074/2012. (III.28.); in:

<http://videkstrategia.kormany.hu/download/4/37/30000/Nemzeti%20Vid%C3%A9kstrat%C3%A9gia.pdf> (19.07.2013)

least two children.⁸⁴ The demographic land programme's date of entering into force is uncertain at the time of writing this article, but it is expected to contribute fundamentally to the amelioration of the situation of families connected to the agricultural sector and rural areas.⁸⁵

Conclusions

Based on the presentations of the conference and the conclusions of the Commission I as a synthesis of the national reports, it can be stated that difference can not only be found between the common law and continental law systems. This sharp line exists between the Western and Eastern-, Middle Eastern European countries' legal regulation as well. In the summary of Commission I, one main problem became visible, which did not emerge in the Eastern-, Middle Eastern European countries. The Western European regulation tends to discriminate indirectly against cohabitants, mainly women in the case of death and divorce, as the aim is to keep the agricultural land and the movables belonging to it in one hand. There is not any special regulation on women in the agricultural enterprise in the Eastern-, Middle Eastern European countries; therefore this problem cannot be discerned in these reports. This differentiation is very well seen while presenting the Hungarian rules in this article, because there are not any special provisions regarding women in civil, constitutional or social security law. That is why the New Hungarian Rural Development Program has a crucial role, realizing that great attention must be paid to women in the rural development policy, and it shall influence as mainstreaming policy the agrarian-, social- and family policy.

⁸⁴ NRDS, p. 75.

⁸⁵ Raisz – Szilágyi 2012, 125-126.