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Land regulation in the European Union and Hungary

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Abstract: Land, as it constitutes one of the bases of agricultural production, has a special position in the economic-judiciary surroundings of states. In Hungarian history, land ownership has undergone many radical transitions. The decade starting from the political and land regulation reform is a short time in land tenure. In spite of it, there have been several important changes in land ownership structure. In the 1970s and 80s, large agricultural firms, especially co-operatives and state farms, were common in Hungary. State hegemony was typical of land ownership and use, with rather small, privately owned parcels. Since privatization began after 1989, this tendency has changed, with land owned by farmers. In the following article, I am going to review the laws regulating land ownership and land use in Hungary and in the European Union.

Keywords: land regulation, land law

Materials and methods

In this article, the following will be shown:

- Hungarian regulations which have an impact on the land structure in Hungary
- The regulations of the European Union
- The proposals of the World Bank.

In the course of my research, I studied the regulations and I used the literature on land law.

Discussion

Areas of regulations

There are two ways in which land is used:

- the private use by the owner,
- rented land.

According to this regulation, land use can be divided into two parts:

- regulations on entering into ownership of land,
- regulations on leasing land

When conducting research into land use, the regulations of both the European Union and Hungary have to be considered.

Land law in the European Union

The land law in the European Union controls:

- the freedom of settlement under the EC Treaty,
- the freedom of private entrepreneurial activity,

- the free flow of capital, with the exception that derogation in the field of land leasing can be initiated.

Direct regulation of land is a right reserved by each of the legislative bodies of the individual member states, and based on their individual historical, economic and social pasts. However, the regulations of the European Union must be taken into account.

Burger (1996) shows that, despite individual national regulations, there is a tendency in the land policy of the states: namely, irregardless of the individual national regulations of the member states concerning land ownership, there are similarities in the following areas:

- Limitation of the size of farms: Minimal and maximal sizes are determined by the regulations of the member states. These sizes reflect significant differences and they are often used for categorizing farm size by farm type.
- Limitation of the number of farms run by one farmer.
- Regulation of provisions for obtaining land ownership and settlement.
- Special inheritance laws in agriculture.
- Compulsory and supported land acquittance
- Obligation to maintain the productivity of the soil,
- Regulation on the extraction of parcels of land from agricultural production,
- Obligated agricultural land use in special areas.

Several forms of land use systems are used in the European Union, and the regulation of land leasing is harmonized to each country's system. In liberal states, the parties of the contract have the right to set land-hire conditions. In states where strict rules are applied (the

Netherlands, Belgium, Scotland, France), land leasing is regulated in the following areas:

- period of land lease,
- rental,
- limitation of the leaser's right to renunciation,
- payback for the rental's investment,
- regulation of sublet,
- regulation of right of pre-emption.

Regulations stipulating the acquisition and lease of the land used by the member states of the European Union are very different. The advantage of strict rules is that they facilitate the development of a stable land structure and provide security to renters, but they are bars for free capital-flow and for the development of a more efficient land structure.

Land regulation in Hungary

Since 1990, in Hungary, the following laws have impacted on the development of the presently-used land owner and land use conditions:

- law 1987/I. about co-operatives,
- law 1991/XXV. about compensation,
- law 1992/XXIV. (second compensation law)
- law 1992/XXXII. (third compensation law)
- law 1992/IL. (fourth compensation law).
- law 1994/LV. (land law)

Sometimes, the price of compensation tickets fell to rather low levels, so those who bought the tickets at this low price had a great opportunity to gain a huge asset at a favourable price. All these resulted in the problem that often those who had acquired cheap lands did not work in agricultural sectors, or did not have skills in agricultural activities. As a consequence, this led to the frittering of lands.

To concentrate small farms and to clear the ownership of lands in joint ownership, the 'perpetuity for land' program was declared. Many statutory orders were a result of this program:

- Statutory order 210/2004.
- Statutory order 255/2002.
- Statutory order 115/2003.
- Statutory order 268/2005.
- Statutory order 325/2005
- Statutory order 38/2006.

The act of 1994/LV. about the land regulates:

- Acquisition of ownership
- Leasing

- Proceedings about creating field tables
- Use and protection of agricultural land.

The presently applied land law is not strict. A minimal period allowed for land leasing has not been set and "the maximum volume of land leasing is regulated by easily by-passable acts" *Tanka* (2000). During the treaty accession to the EU, Hungary requested the right to further enforce the act excluding foreigners from land acquisition. This prohibition for foreigners will remain for the 7 years following accession, i.e. from 2004, and may be prolonged by an additional 3 years. However, this lengthening of the exclusion provision may only be allowed if national land prices do not reach the average of prices for parcels of similar quality and size in the European Union.

Our land law violates the criteria of free flow of capital by limiting land use in time and in space and by excluding foreigners from buying agricultural lands.

Proposals of the World Bank for updating land leasing

According to the World Bank, "The owner of the land may be the person, who can afford to buy it". To ensure the free flow of capital, the proposals of the World Bank are the following:

- the right to get land ownership by legal entities must be guaranteed,
- the maximal size of land acquisition should be cancelled,
- the right to acquire land ownership by foreigners should be guaranteed,
- the freedom of contracting (without state interference) should be permitted during land leasing,
- law protection must be given for those who let out land in contrast to the EU's practice, which provides law protection to tenants.

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