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BOND Regulatory Framework Report

Best Legal Practice for Small Farmers

prepared by **Kisléptékű Termékelőállítók és Szolgáltatók Országos Egyesülete**
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I. Executive summary

This report was prepared under BOND Project¹ and seeks to present the most relevant best legal practices in the particular areas, discovered with cooperation and assistance from the partners, in the hope that they will be useful to facilitate collective actions, and to ensure access to sustainable markets for the small farmers in the different European countries in their diverse legal systems. These practices and measures might foster to formulate proposals through European examples to overcome various legal barriers that can be used by farmers and NGOs to help them in their daily lives and support small scale farmers and ensure food security throughout Europe.

The report examined regulations on trading and sale in agriculture sector, on defining agricultural activity as well on collective actions, including cooperative rules. In some cases, agricultural taxation rules as determining factor of cooperation were also revised. Competition law is treated as a separate subject but is of crucial importance when promoting collaborate action among farmers.

The expressed objective of the report is to examine supportive regulatory solutions from the prospective of small-scale farmers. The reason for this is that only those individual farmers who are able to operate and grow economically will be able to collaborate with other farmers. These best legal practices enhance farmers for collective actions through these legal best practices, enables them and their organizations to be actively involved in decision-making processes.

This does not aim to provide a detailed and comprehensive description of best legal practices pursued all across the 28 EU Members States. Rather, there were assessed well-functioning systems as experienced by the BOND project partners participating in the implementation of the project. In a number of cases, there were received legal texts in various Member State languages. As it would have been difficult for the target group to construe these texts *verbatim*, a description of the essence of these texts was provided, with a description of the particular cases in an understandable form. There is duly provided information about the sources consulted and the link to laws and decrees, in case someone wishes to go into greater detail with legal assistance and wish to include them in proposals in the course of furtherance of their interests locally. In collecting best practices, there is an emphasis on issues and factors in regulations of their assisting and supporting nature, proven useful and supportive in practice, rather than making recommendations on applying laws and decrees in full in the particular context.

With this in mind, the study seeks to ensure that readers with a different interest in law find the knowledge they need. Thus, the executive summary of the study is a brief summary of good practices that have been identified. The second part of the study describes the best practices that have been introduced in more detail. Finally, a detailed description of particular rules, in some cases an extract, of the discussed legislation is also part of the deliverable form of the study which can be found in the website of Kislépték (www.kisleptek.hu) under Publikáció/BOND Publikáció. Here, those lobbying for more fostering national legislation can also hopefully find ammunition for enhancing the regulatory framework of small farmers and their collective actions in their home country.

Recommendations

- One of the most relevant condition of sustainable farming is diversification which may be achieved through supportive taxation system which fosters food processing and activities related agriculture and food processing such as agro tourism and social farm services.

- Family farms have a long-term production perspective. This makes it easier for young people to stay with or return back farming, ultimately the generational renewal. Generational renewal and modernisation, both are CAP 2020 objectives, they may be supported if inheritance and land regulations support young farmers access to land and provide favourable conditions for start-ups.
- Short food supply chains are effective tools for ensuring the access of small farmers to markets and capital though their detailed rules are not properly developed in many EU Member States. Therefore, it is necessary to articulate EU and national regulations, which encourage the creation of short supply chains, innovative trading rules, based on European good legal practices. It is highly important that the EU promotes creation of innovative short supply chains in the future. Nevertheless, proper measures are necessary so that regulations favourable for short distribution channels are not overridden by any free trade agreement neither on EU level, nor on national level.
- There are new forms of collective actions, beside the traditional formal operation in cooperatives, which operate in many cases informally. Regulations for the operational and subsidising frameworks of these innovative forms of collective actions is recommended.
- The distinction and differential taxation between agricultural and non-agricultural activities (regarding different diversified farm activities) makes it difficult for the farmer to comply with tax administration. In order to resolve this obstacle, we propose to allow declaring incomes derived from related or supplementary to agricultural activities within the agricultural activities up to a certain but fair amount.
- We propose to establish a special EU level working group for the integrated management of the legislation and the preparation of guidelines for the marginal, handcraft and diversified small scale production as well as their professional representation within the European Union Council or in its background institution (through SCAR subworking groups, EIP AGRI working group, ENRD, etc.).
- Guidelines and repository of good practices should be prepared by European Union and Member State accordingly (published through EIP AGRI and ENRD network) which support Member State legislation and implementation in the government administration and authorities:
 - flexible hygienic rules set out in the Hygiene Package has to be collected in one guideline which then encourages authorities to enhance the application of this flexible hygienic rules;
 - a guideline for creation and operation of mobile food processing operations and mobile slaughterhouse under lighter hygienic and administrative regulations;
 - a guideline on public catering procurement and public catering services which includes environmental and social aspects in evaluation;
 - a guideline on utilisation of animal by-products for handcraft purposes on local level (e.g. raw wool processing by felting or weaving, or production of cosmetics from food raw materials, such as cucumber, milk, honey, etc.);
- Recommendations on planning Common Agricultural Policy after 2020
 - supportive measures in CAP II pillar to foster collective actions of small farmers (where eligibility criteria is the status of being the smallest farmers) and the development of territorial (short food) value chains;
 - the “cooperation measures” applied by certain Member States in the Rural Development Programme of 2014-2020 should be broadened for participates of short food supply chains, small farmers and social farms (e.g. The Netherlands and EIP Ireland);
 - in the case of investment measures, we propose to apply social and environmental positive effects in the evaluation beside competitive aspects (such as compliance with

- environmental sustainability, social common good, community development, ethical behaviour);
- support diversification of farming activity, including social farms services into measures supporting viable rural living;
 - maintenance of the possibility for a lump sum pre-finance support for small farms in the subject of farm diversification, small farm investments, food processing and selling facility development of social farms.

Summary of legal issues and best practices

1. A business (in our case agricultural) activity is not sustainable, ultimately does not provide a proper living if its operational costs are larger than its predictable income. Proper living depends to not only the volume of the income but to a large extent, especially in the case of small-scale production, on the volume of the operational costs, taxes, government support and social security contributions. In many cases, the costs are too high since small individual farmer have to comply with such hygiene, environmental, etc. standards as large-scale farmers together with the obligation in financing plant establishment (v. industrial level) infrastructure and investment that small volumes do not allow. During our survey (on national workshops, with questionnaires on regulatory framework) our hypothesis was proven, as **flexible supportive regulations** on defining agricultural activity, for start-ups, tax facilitations, fostering collective actions, special regulations for family farms, **indeed, ensure the economic and social sustainability of farmers.**

2. **The distinction and differentiated taxation of agricultural and non-agricultural activities entail the application of several methods and records at the same time, which complicates tax administration for the farmer.** This has been solved in the Austrian taxation system which allows declaring secondary and supplementary activities as agricultural activity up to a certain amount (33,000 EUR). It is also facilitated by the tax administration that in Austria, as well as in Romania, the spouses can jointly file their tax returns.

3. The agricultural activity is carried out on small family farms in most European countries, **we therefore consider it a best practice that in many Member States taxation is related to the economic size of the farms.** In many of the examined Member States tax systems acknowledges a certain size/volume under which there is no tax. It is usually determined by a certain amount of turnover, or income below which no income tax imposed. For example, in Hungary below 12.700 EUR; in Romania, up to the limits specified in kind for each product line; in Slovakia below 4,035 EUR; in Austria below 11,000 EUR; in Croatia 11,400 EUR, Norway 6,850 EUR. **However, great care must be taken in determining these thresholds, as farmers might be deprived of support and agricultural credit and financing opportunities because of the often-enticing tax breaks.**

4. Special forms of taxation typically are connected to private person taxation, but there are other forms. We found a good example for the **taxation of small businesses (in some cases for start-ups)** called the micro business tax, which may also be applied to agricultural incomes in Romania and triggers corporate tax. The basis of the tax is the net income and the rate, depending of the number of the employees, does not exceed 3 %.

5. The first level of cooperation, the very basic but important one is the **family**, the cooperation of the family members. We have seen practices in several Member States which encourage family farm activities for example in Croatia, Portugal, Austria and France. These regulations set out rules of the family ties, the management of the joint ownership, the inheritance, the types of agricultural activity that may be carried out, and the rules of subsidies or tax allowances. However, as a result of our survey must be recognised and the results of the project workshops that **a too narrow ruling on permitted quantity of production or income force family farms to stay in the amateur (i.e. only limited to the sale of surplus which is not enough to be economically viable) agricultural activity which is the biggest barrier for their development, such as in Hungary or Portugal.**

6. One of the greatest potentials for access to market for small farmers is the short food supply chain which developed significantly in the past years all over in Europe. **However more studies (EIP AGR Focus Group, 2015, IRC scientific and policy reports, 2013, SKIN report 2017.²) pointed out that the definition of the short food supply chain is not clear neither on European Union nor on Member State level, so the potential of diversity and innovation in value chains cannot be exploited.** The community supported agriculture, online sales, collective trading, cooperative trading are all such collective actions which serve the economic sustainability of farmers. **Although short food supply chains and sometimes related concepts are regulated in most of the countries examined, but neither the detailed rules for commercial forms are defined in law** (such as public procurement, forms of retail, their actors and place, delivery of the products, certifications, use of cashier, waste management) **nor the forms of intermediary and persons.** This means that farmers may not use these new innovative forms of values chains and authorities may not interpret. However, it can also be stated that in principle support exists in most countries. There are best legal practices in Norway and Italy where cooperative is not deemed as an intermediary in the short food supply chain despite cooperative purchases products of the farmers and resell as a form of collective action. We have another best legal practice from Valencia where short food supply chain and its actors were defined (decreto 201/2017 and decreto 134/2018) provides hygienic relief for such small-scale farm processing which is local and serves social and environmental public goods.

7. Within access to market, the **definition of food processing intermediaries has been identified as a particularly important issue** in several national workshops and in the responses to general questionnaire. It is often unclear, and authorities manage it also unclearly whether processing can be interpreted as an intermediate actor or as a single service. The French processing point collectively managed by farmers, which provides services to the member farmers, thus farmer may sell that processed product as his own processed product. In such case it is not necessary to have high costs investment and comply with required professional qualification on individual level. The collective processing point will remain in small processing plant category from hygienic standards and this allows a flexible small-scale farming production based on local resources in cooperation of more farmers.

8. Often mentioned **problem is the lack of differentiated regulation for small, medium and large producers, small and large food processors and rural service providers from large scale industry regulation.** There is no small processing plant regulation both in the primary and processed production (small bakery, small butchery, jam production, artisan cheese makers, etc.), which could operate under regulation (hygiene,

administration, professional qualification, infrastructure, environmental protection, taxation, etc.) tailored to its size and economic potential. The lack of such regulation substantially affects food producers in social economy.

9. Public catering is a strong market potential in short food supply chain for farmers in several countries. **Public catering is market potential and an economic development tool based on local resources and has special importance in social economy.** Public procurement may well use environmental and social principles such as waste minimisation, use local resources. According to 2014/23/EU and 2017/24/EU directives public procurement has started to cover additional policy objectives, besides economic aspect, such as environmental sustainability, social inclusion and the promotion of innovation. In order to promote this objective social and green public procurement guidelines were already issued for construction, furniture production and purchase, etc. Nonetheless **there is a need to have guideline in public catering procurement which have more focuses on the environmental and social objectives,** and that would bring to the forefront the aspects of agroecology and considerations of locality or regionality. It is worth to mention the best practice of the Sain-Laurant-des-Vignes municipality presented in the French workshop. They already work to achieve the national goal (amendment of article 11 of the law of Agriculture and Food) that 50 % of the food in public catering should be from ecological farms by 2022. Local farmers provide 80 % of the food in public catering in cooperation with CUMA in that small village, which requires a substantial organisational work and a strong alliance with civil partners, which actually is rather a challenge in other settlements where the strong civil support is missing. The other best legal practice is from Valencia where regulations on public catering and social economy applied parallel as to serve public good together with the social and environmental sustainability however it takes rather big administrative burden on the parties.

10. European countries apply the general rules under the Co-operative Principles with minor differences. We bring best legal examples from Norway, France, United Kingdom and the Netherlands. The cooperative principles and operational features and benefits thereof are not known or commonly accepted in Central and Eastern European countries. Therefore, the knowledge transfer on cooperatives and other forms of collective actions (producer group, other legal forms) at Member State level is needed. The form could be the **cooperative cooperation extension services and mentoring**, which would assist and advise on foundation of cooperatives and its daily operation and provide start-up and follow-up business and legal services (business plan, internal rules, profit distribution, cooperative mutual help and assistance, methods on the exercise of the voting rights).

II. Sustainable farming

If the costs of an activity are higher than the expected revenue from it, the activity is not sustainable from economic point of view, it does not provide enough revenue to cover the basic living costs. Subsistence - especially in the case of low volume of production - largely depends on the tax and social security burden, besides the sum of revenues. In a number of cases the associated costs are disproportionately high because small farmers must meet hygienic, environmental protection requirements by investing in production infrastructure for which the necessary means from small quantities of production are not available. For this reason, we are presenting in this chapter below good examples of flexible rules to relieve producers from disproportionate burdens, relating the definition of agricultural activities, tax relief, promotion of cooperation forms and family farm forms.

Reviewing these rules, in addition to the provisions of producers and small producers, the term of family farm is often used as a synonym term.

The laws relating to family farms are listed in Annex H³.

It is because the first and also important form of cooperation is the family, where the members of the family cooperate. That is why after the International Year of Family Farming,⁴ the United Nations has declared the years 2019-2028 the International Decade of Family Farming. Its objective is to put family farms in the centre of attention of agricultural, environmental and social policies. Resolution number 2013/2029(INI) of the European Parliament on the future of small agricultural holdings⁵ has confirmed that “these smallholdings represent a model of social agriculture which can and must coexist with other, more large-scale and market-oriented models of agriculture, and takes the view that reducing the number of small agricultural holdings will not boost the competitiveness of larger holdings⁶. The report of the European Parliament of 8 September 2015 on family businesses in Europe (2014/2210 (INI)) states that the operation of family farms provides an opportunity for the owner of the farm, and other members of the family as well as their employees and temporary workers to work locally in that particular area.⁷

II.1 Promotion of cooperation by setting a broad definition of family farming and agricultural activities

The definition of farmers and agricultural activities in the examined countries affects taxation and in a number of cases, the title of subsidisation and the conditions of subsidisation. In a number of countries farmers engaged - in addition to agricultural production - in secondary activities or in diverse activities (e.g. rural tourism) are not eligible to participate in certain rural development or other development tenders, in relation to such secondary or diverse activities. The broad definition of agricultural activities allows the farmers to earn income from a number of - even diverse - sources thereby providing a stable subsistence for themselves and their families. As the term of agricultural activity is defined in the narrow sense in Hungary, it poses a barrier in this respect, as small farming activities covers also farm catering service but does not cover agritourism services (provision of accommodation, information, event organisation and processing of raw materials of other farmers. Currently negotiations are being conducted to amend the rules considering good international examples. The situation is similar in the United Kingdom, where - except agricultural production - secondary or supplementary agricultural activities are not regarded by the authorities as primary agricultural activities, and for this reason, farmers are expected to obtain other official licences to pursue these activities. The decision in the Millington case⁸ in 1999 opened a way to diversification of agricultural activities, where it was held that “making of wine is secondary to normal farming activities”.

In assessing a number of countries, it was found that agricultural activities cover - in addition to basic agricultural activities - a number of secondary activities that are related to farming activities, produces, rural traditions and economic resources. It means that the legislators in a number of Member States have realised that small farms cannot operate in a sustainable manner just from pursuing basic production, and because of the small farm sizes. The term is defined broadly in Croatia, Austria, Italy and France. As this term is defined in the narrow sense in Hungary, it makes a barrier in this respect, as small holding activities covers also farm catering but does not cover agritourism services (provision of accommodation, information, event organisation and processing of raw materials of other farmers.

In addition to the definition of activities, in a number of cases, the definition of self-products also assists in sustainability by covering also a pre-set portion of raw materials obtained from another farmer, which is then processed in conjunction with such self-produced items. In these cases, the feature of the local products will remain, allowing sales at a higher price. Such supportive terms are found in Croatian, Austrian and Italian regulations.

II.1.1 Austria

Agricultural activities are regulated in Austria by the Act on craft, commercial and industrial activities (GewO)⁹. The Act makes a distinction between primary production, secondary agricultural and forestry activities and domiciliary secondary activities. It is to be noted that the following products are also deemed as primary agricultural products¹⁰:

- dairy products without any flavour enhancers, including traditional cheese types of the countryside;
- certain processed plant products (dried fruit, pickled cabbage, tea, herbs), fruit wine, pressed vegetable and fruit juices, honey beer, syrup;
- ornamental plants, wooden products;
- egg, wool.

Secondary activities within agricultural products include in particular (under Article 2 (4) of GewO)

- Processing of other products;
- Processing of raw materials from other farmers provided that the quantity and quality of own raw materials must exceed those secured from other farmers. The products bought over and above this amount must be raw materials of the same type and characteristics produced by the particular farmer. E.g. A farmer producing fruits, making liqueur from peach, may not buy cherry to make a product.
- Other activities pursued in agricultural, and forestry commercial or industrial cooperatives, provided that these cooperatives primarily provide support for the members' commercial or farming activities (Article 2 (1) (3) and (4) of GeWo).
- A specific amount of wine and fruit wine, slum and juice may also be served for consumption; and cold food, mineral water and carbonated refreshments may also be served for consumption provided that these activities are in line with the traditions of the particular regions. The provision of warm meals is not allowed.

Domiciliary secondary activities: may be performed in all households without any specific operational licence, one of the key activities is room hire. Domiciliary secondary activities are largely performed in the house (yard, apartment) owned by the farmer, and are secondary to any other domiciliary activities, performed by a family member living in the same household or persons permanently linked to the family (e.g. domestic helper). Where one or more of the above conditions are not met, such activity is to be deemed a commercial operation.

The provisions of GewO thus defines agricultural activities in the broad sense, and it is particularly important to note that they are subject to preferential tax rules. These tax rules are described in Section V.2.

II.1.2 Croatia

Act number NN 29/2018 (585) on family agricultural farms¹¹ provides a separate organisational unit, family farm (in Croatian: OPG = Obiteljsko poljoprivredno gospodarstvo).

Croatian family farms are registered economical and organisational units consisting of natural persons engaged independently and permanently in agricultural and related secondary activities for profit, by using their production resources, and relying on the work, knowledge and skills of the family members. There are no conditions in terms of expertise and no initial capital is necessary to create an OPG. Family members working in an OPG are not required to create an employment with the OPG. Mutual OPG family farms may also be established by family members not living in the same household.

An OPG may pursue the following secondary activities:

- Production of agricultural and food products;
- Production of non-food products;
- Provision of catering and tourist services;
- Other related activities.

Self-produced agricultural products produced by the OPG may be sold by the owner, the members and employees of the OPG.

Decree No. NN 76/2014 (1437) of the Croatian Ministry of Agricultural¹² determines the types, manner and conditions of pursuing secondary activities that may be pursued in a family farm. According to this Decree:

- Primary agricultural activities cover plant production, animal breeding and related services, and primary processing of agricultural products listed in the Annex of the Act.
- Secondary activities of OPG family farms includes:
 - Agricultural and food industry products partly from self-produced raw materials, with a maximum of 50% of raw materials to be obtained from other farmers (excepting milk and meat).
 - In pursuing its activities, an OPG family farm may engage in the production of non-food products and generally used goods, toys, jewels, decorative objects, pieces of clothes, cosmetic products, associated with traditional professions and/or traditional knowledge, made from natural materials (e.g. straw, wicker furniture, beeswax, soap, clay, glass and fabric).
 - In an OPG agricultural, touristic, catering activities may be pursued (e.g. In wine cellars, tourist destinations, country summer house, camps), and the kitchen and dining room of the family may also be used for catering purposes. The food and beverages on offer shall be originated from the self-production of the OPG or shall have been obtained from another OPG.¹³
 - Family farms may offer various services: by using agricultural and forestry machines, equipment, tools, by animals, ground works, etc.), and other services (including counselling) related to rural habits and/or traditional expertise.
 - Other activities, such as the transfer of expertise in crop production and animal breeding, provision of traditional products and crafting sessions, organisation of trainings and courses.
 - Production and distribution of biomass, manure, liquid manure, manure liquid, biomass-, water-, wind- and solar energy is allowed up to nominal output of 1 MW originating from renewable energy sources; at least 20% of the raw materials used to biomass energy production shall originate from the activities of the OPG.
 - OPG may pursue wildlife management, may collect crayfish, frogs and may also produce freshwater fish in the family farm;
 - OPG may organise events relating to the operation of the family farm and rural habits, the traditions of traditional professions and/or traditional expertise.

II.1.3 Italy

Agricultural entrepreneur¹⁴ may produce basic products, may engage in forestry activities, animal breeding and related activities. Decree No. 228/2001 on the principles and modernisation of the Italian agricultural sector as an amendment¹⁵ provides a new concept for agricultural entrepreneurs with a broader definition, including:

- Primary production;
- Secondary activities, that are handling, processing and commercial sale of products, and;
- Producers may process products obtained from another producer. The proportion of self-produced materials must be a decisive¹⁶ quantity. Farmers must receive more income from self-produced products and his activities than that he earned from products made by others. A further condition is that the product of the other farmer shall originate from the same region and the requirements of the local municipality must be fulfilled.

- By the introduction of the new regulations, it is possible to provide services relating to agricultural activities, including the maintenance of the area, and preservation of rural and forestry heritage, or
- Accommodation and catering services determined in the act¹⁷. Farmers are now allowed to sell products ready for consumption, which may be consumed on the spot.
- Decree 228/2001 allows e-trade as a form of direct selling of agricultural products.

II.1.4 Poland

In Poland pursuant to the provisions of the Constitution of 1997, the basis of agriculture is the family farms. It is not a separate legal organisational entity, but rather a family community. The term of “family farm” consists of two basic elements:

- the work of the farmer (owner, land user) and his/her family members; and
- the use of the income for production and management purposes and the social and financial needs of the family (Potori et al., 2014¹⁸).

The Decree of 16 November 2016¹⁹ governs sales of food products by the farmers. Pursuant to this decree, farmers may directly sell fresh goods, and also processed food (previously it was prohibited) to the consumers. At least half of the processed products shall originate from the farm of the farmer (and the farmer may use among others water, flour and oil), however, he/she may sell processed products only if these were produced in his/her own farm without the involvement of an employee (excepting slaughtering and chopping of own animals, grinding of wheat, pressing of oils or fruit juices, and their sales in fairs). Farmers may sell their products in a number of ways, for example in farm shops, farmers markets, fairs, festivals, to retail stores, public catering, restaurants, via agro tourism and the Internet.

II.1.5 Portugal

The Act on family farms in Portugal is new, it was passed in 2018²⁰. Pursuant to this Act, family farms are agricultural holdings, in which the family labour represents more than 50% of full work force of the farm measured in annual work unit. Family farming includes family farming activities and landscape management, and the promotion of social life of the countryside. The term of family is broadly interpreted, covering the spouse, and in addition to the spouse and second degree descendants and ascendants, brother-in laws and the civil partner, and those living in the farm with the owner, regularly participating in farming activities, noting that family labour shall be over 50% of the total labour in the farm.

The family farm Act provides only the basic definitions and the conditions of registration, but the detailed rules and implementation decrees are yet to be adopted, under which - according to expectations - family farms may operate in favourable operational conditions and may receive subsidies.

Since the adoption of the decree it has become clear that the family farm status (and the expected subsidies) refers to a very narrow segment of farmers, as this status is registered for those family farms which annual income is less than EUR 25,000.

II.1.6 Romania

In Romania, agricultural activities may be performed by natural persons in either of the following forms:

- independent agricultural entrepreneur
- registered FPA (persoana fizica autorizata) - self-employed person, with a maximum of three employees officially employed by him/her. Such persons may pursue a maximum of five activities²¹.
- I.I. (Intreprindere individuala) sole proprietorship (without legal personality²²). Such person may have employees (maximum 8 people). Such person may pursue a maximum of 10 activities according to the list of economic activities.
- I.F. (intreprindere familiala) family enterprise, with members consisting of only family members. Family enterprises may not employ external persons but may contract out various jobs to be performed by another enterprise. Family enterprises have no legal personality. Family means: husband, wife, descendants and ascendants up to the third generation.

The term and size of family farms are defined for subsidy purposes, thereby narrowing the range of beneficiaries of CAP (Common Agricultural Policy) subsidies, which is between 8.000-250.000 standard production value (2-50 UDE, that is, gross operational margin of the enterprise)²³, and which regulation was in force until 2017, then the regulations relating to family farms are applied to small farmers.

II.2 Preferential tax terms relating to agricultural activities

In the majority countries examined in this essay, taxation of agriculture and closely related primary product processing is subject to rules differ from the general activities, and such activities are generally taxed at preferential rates, which is in line with production characteristics.

Small farmers and family enterprises perform their activities individually, as self-employed persons, and thus their income is subject to personal income tax regulations. If agricultural activities are performed by a corporation, its activities are subject to corporate tax regulations.

In the majority of European countries, agricultural activities are pursued in small family farms, and for this reason, the majority of good practices are formed in relation to holding size. In the majority of Member States covered in this essay, the tax system recognises a small holding or volume size (it is usually determined at a maximum value of income or revenue) under which no tax shall be payed (e.g. In the Czech Republic, CZK 20,000 (EUR 780)) income, in Hungary HUR 4 million (EUR 12,700) income, in Romania, thresholds relating in-kind products are set for product ranges, in Slovakia EUR 4035.84, in Austria EUR 11,000, in Croatia, HRK 85,000 (EUR 11,400), in Norway EUR 6,580).

In several countries simplified recording requirements and preferential tax rates apply to farms with size over the taxable granted usually by applying a flat rate income or cost accounting method (e.g. In Austria, up to income of EUR 400,000, a rate of 42% income portion, in Slovakia, up to EUR 20,000, a rate of 60% income portion, in France, up to EUR 82.800, a rate of 87% income portion) or taking into account some in-kind index. An example for the latter case is Poland where the basis of the special tax applied to family farms is established based on the size of the cultivated agricultural area, considering also its type and classification and the conversion rate belonging to the particular economic tax zone. The sum of the tax corresponds to the price of 250 hundred kg of rye annually. Although the price of rye is subject to economic circumstances, this type of tax is simple, predictable and easy to calculate. Another example for simplified and foreseeable taxation is Romania, where income from agricultural activities is taxed according to pre-set income norms (annually, in different sums per counties). The tax base is calculated as a product of the income norms and the area.

A good example for the taxation of small size and newly established enterprises (not only in case of agricultural activities) in Romania is the micro-enterprise tax, which also serves as a substitute for corporate tax. The tax base is the net revenue, charged at a maximum rate of 3%, depending on the number of employees.

The separation of agricultural and non-agricultural activities and their different taxation carry a concurrent application of a number of methods and registration, make it difficult for the farmer to perform tax administration. The regulation of Austria solves this problem, which allows the submission of revenue from secondary and secondary activities within agricultural activities up to a certain amount (EUR 33,000). Another case for preferential tax administration is the possibility for the spouses in Austria to submit their tax returns in a joint report, as in Romania.

Another good practice includes the flexibility of Croatian tax regime, which is seen in OPG family farms having the opportunity to choose a taxation form from the entire tax regime, irrespective of their form of operation. The practice in Romania takes into account the time of earning agricultural income. In Romania, the annual tax must be paid in two instalments, the first half being payable by 25 October, and the second by 15 December.

II.2.1 Austria²⁴

In order to ensure a long-term survival of small farms and family farms, tax rules allow a simplified tax calculation in view of the size of these farms. The system also offers simplified administration for the farmers but excludes tax evasion over a certain size.

Another important issue and good practice at the same time in agricultural taxation is that small farmers may use flat rate tax, based among others on the geographical, environmental, social, and infrastructural and soil characteristics of the farm. For these reasons, this system is described in detail below.

In addition, the definition of agricultural activities is flexible and up to a certain level it is not required to establish an enterprise for these activities. Agricultural activities in addition to basic activities include secondary agricultural and forestry activities, processing, farm catering service, selling of must, room hire up to 10 beds and cooperation between the various farms and holdings.

Another important issue to note is the fact that the certain processed traditional products (e.g. cheese) are defined as primary products, rather than processed products. The rules are described in detail in Annex A. Part 1²⁵.

II.2.2 Croatia²⁶

Tax burden in Croatia is regarded as high in comparison with EU Member States, (OECD 2019), which was 37.8 % of GDP in 2016. An advantage of the system is opportunity for enterprises and businesses to choose from a number of taxation methods, furthermore, small enterprises are given preferential treatment in the system, and a simplified form of taxation exists also in agriculture. (Herich et al.) A further advantage in the tax system is the fact that various forms of taxation are available partly independently from the form of operation, which means that there is no need to establish a business association to enable the farmer to pay income tax.

In Croatia, agricultural activities are mainly performed in family farms, and family farms may pursue their agricultural activities in a separate legal form named family farms (OPG) since 2018. OPGs are subject to preferential tax rates, and under income of HRK 80,500 they are not

obliged to payment of personal income tax. The detailed rules of taxation available for OPGs depending of their income level found in Annex A part 2 and Annex A Part 3²⁷ provides a brief summary of the tax system in Croatia.

II.2.3 Czech Republic²⁸

In the Czech Republic cooperatives and the limited liability companies (legal persons), rather than sole proprietorship play an important role in agriculture, and for this reason, corporate tax is the key tax in the income taxation of agricultural holdings. It derives from the fact that about 70-75% of agricultural lands is owned by legal persons or cooperatives (Pawłowska-Tyszko 2013: 101-104 In: Mielczarek, 2017²⁹).

Individual small farmers do not need to pay income tax up to CZK 20,000 agricultural revenues. The detailed tax rules of the Czech Republic are found in Annex A Part 4³⁰.

II.2.4 France³¹

Agricultural activities are regulated by a special tax regime, the agricultural income system, on 3 separate levels:

- a) Micro-level taxation: applied if the average of income in the past 3 years is less than EUR 82,200. The tax administration system is the simplest at this level: income and expenses shall be documented by cash receipts and invoices.
- b) Simplified standard taxation: applied if the average of income in the past 2 years is between EUR 82,200 and EUR 352,000. The accounting records in this case the balance sheet and the simplified profit and loss statement.
- c) Standard taxation: applied if the average income in the past 2 years is over EUR 352,000. In this case, a detailed tax reporting is necessary (balance sheet, profit and loss statement, amortisation schedule, capital gains report).

Income from solar panels and wind energy and secondary income (rural tourism, goods produced out of the farm for reselling) are considered to be agricultural revenues in the standard tax system, as long as three-year average income from secondary activities does not exceed 50% of income from agricultural activities and EUR 100,000.

II.2.5 Hungary

In Hungary, agricultural activities are pursued to a small extent a form of corporations, while a greater and increasing extent in individual farms. The former is usually subject to corporate tax, the latter usually pay their tax under the personal income tax regime.

Personal income tax³²

In Hungary, agricultural producers may pursue agricultural activities as primary agricultural producers or as individual entrepreneurs under the personal income tax regime.

The primary agricultural producers are who are engaged in the production of traditional agricultural products listed in Annex 6 of the Act on Personal Income Tax solely in his/her farm by holding a primary agricultural producer registration. These activities do not include craft or traditional non-food products and agrotourist service provisions, which constitute hindrance in their activity.

The key consideration as regards the taxation of primary agricultural producers is the sales revenue. The complexity of the system is shown by the fact that seven taxation methods are available to select from.

The tax methods available for primary agricultural producers are the following:

In case of sales revenue up to HUF 600,000, primary agricultural producers do not need to consider revenues and pay tax.

In case of sales revenues between HUF 600,000 and HUF 4,000,000 from agriculture (without aids), primary agricultural producers may declare that they earned no income, and therefore they have no tax liability. This option is conditional on incurring costs at least at the rate of 20% of the revenues as verified by invoices.

In case of revenues less than HUF 8 million, primary agricultural producers may use flat rate cost accounting, which means that in addition to the costs verified by invoices, they may record costs up to 40% of revenues, without verifying them by invoices.

Likewise, in case of revenues less than HUF 8 million, primary agricultural producers may also select flat rate taxation, which means that they may deduct 85% in costs at flat rate from their revenues - or in case of animal breeding or production of animal products, 94%, and the outstanding balance of 15 % or 6% will be treated as revenues.

In case of revenues exceeding HUF 8 million, primary agricultural producers may calculate their income by cost accounting, which means that they must collect invoices relating to their revenues and costs, and they must calculate their income in view of these invoices.

Where the primary agricultural producer does not want to record costs item by item, they may select to use the 10% flat rate cost accounting in calculating their tax base. In this case, 90% of the revenue is considered income.

The tax rate of the personal income tax is 15 %.

Another twist in relation to the taxation of individual farms lies in the fact that a natural person may have the status of primary agricultural producers and at the same time may have the status of individual farms in relation to other activities outside the scope of primary agricultural producer status and may select same or different way of taxation.

The rate of corporate tax in Hungary is 9% since 2017, which is paid by the company on its annual income.³³

Value added tax³⁴

In Hungary, the standard rate of VAT is high 27%, with two preferential tax rates. The higher preferential rate is 18% and is applicable to product like dairy products, baked goods, pastry, commercial accommodation, catering in restaurants, and internet, etc. The preferential rate of 5% applies among other items to poultry live animals and meat, pig live animals and meat, bovine, sheep and goat live animals and meat, milk, egg and fish, from among agricultural products.

As from 2019, the threshold for tax exemption on account of taxpayer status is HUF 12 million, which means that this option is available for enterprises with low level of income. Enterprises tax exempt on account of their status are exempt from paying VAT, and no VAT is deducted from them.

See details in Annex A Part 5³⁵.

II.2.6 Moldova³⁶

Agricultural enterprises and farmers pay nine types of taxes and fees. The detailed regulations are the following³⁷:

- a) natural persons, private entrepreneurs, legal entities engaged in independent professional activities are to pay tax at 12% of their taxable annual income;
- b) agricultural households (farms) pay tax at 7% of their taxable income;
- c) businesspersons and entities with estimated income as per Articles 225 and 2251, in case of exceeding the estimated income, 15% of the difference so arising, in view of the gross income recorded by such persons and entities.

The rate of social security contribution payable by employers in the private sector is 18%, while employers in agriculture pay tax at 12%, with persons' contribution rate equalling 6%. The rate of compulsory health care insurance is 9%, of which employers pay 4.5% and employees 4.5%.

II.2.7 Norway³⁸

Income taxation

Agricultural income includes all income from activities, which derives from food or fodder production by using the land or livestock, and these activities also include the processing and sales of primary products. This scope of activities also includes secondary income from agricultural activities, the production of biomass for energetic purposes, including wood production as well.

No personal income tax is payable in case of income below EUR 6,580 (NOK 63,500). Over this income level, 38% of the income may be deducted from the tax base, up to an income of NOK 166,400. This deduction is available for farmers having engaged in agricultural activities for more than half of the tax year. The tax rate over the tax exemption minimum level is 38%, up to the level of EUR 17,250. The maximum tax burden is over income exceeding EUR 34.650.

Farm store sales is regarded as agricultural activities up to a certain income level. Over this level (no specific level determined) activities are considered as a regular enterprises (business). This result is practical rather than financial in nature. As long as these activities are performed by a single member legal entity, income is treated as a personal income and is taxed accordingly.

However, as far as the farm shop generates income directly connected to the production on the farm, it will be treated as a part of the farm income.

There are some criterions for the tax scheme:

The most important are that the farmers activity must be an official registered farming entity, the activity must have a "not insignificant scope".

The so called "agriculture deduction" reduces the taxable (net) income before taxation.

First NOK 63,500 (Euro 6350): full deduction. Income above NOK 63.500; 38% deduction up to maximum NOK 166,400 (Euro 16,640). Given that the farmer fulfils the criterions for the tax scheme, some income from other products than his own will be considered as a part of the farm income. If it in its nature will be considered as "side activity", still up to NOK 30.000 from this can be taken into the net farm income and the tax deduction.

II.2.8 Poland³⁹

Agriculture in Poland is treated as a special sector of the national economy and for this reason it is subject to tax conditions other than those used for other businesses. Private entrepreneur farmers in Poland are exempt from personal income tax. However, it does not exclude application of other taxes to the farms.

In Poland, agricultural activities are primarily taxed by agricultural taxes, which are a local real estate tax. (Janczukowicz 2015: 345, In: Mielczarek, 2017). Agricultural taxes shall be paid on the base of Agricultural Tax Act⁴⁰. The tax base of agricultural lands is determined by the size of the cultivated agricultural area. The detailed rules for the calculation of tax base are set forth in Annex A Part 6⁴¹.

It was proposed earlier to apply personal income taxation, for the following reasons:

- agricultural tax is neither a clearly asset-based nor an income-based tax;
- the sum of the tax is calculated on the basis of the general price of rye, which is no longer the most important produce;
- agriculture tax is a local tax, however, towns and villages have indirect options to change the rate of tax, as it is compulsorily prescribed by the relevant law.

II.2.9 Romania⁴²

In Romania, all payable taxes are regulated by the Act No. 227/2015 on the annual budget, which was last amended on 25 July 2019⁴³.

The best practices in legislation are the following:

- in case of producing agricultural plant products defined in the ac, in areas less than 2 hectares, and below a certain number of livestock, no personal income tax is payable;
- the sum of the agricultural tax depends on the income norm, thus it is easy to calculate, rather than on the basis of income earned in the particular year,
- small enterprises are subject to micro corporate tax, the rate of which depends on the number of employed persons;
- start-up enterprises may also select payment of the micro corporate tax;
- personal income tax returns may be submitted by the spouses jointly.

The detailed rules for the calculation of tax base are set forth in Annex A Part 7⁴⁴.

II.2.10 Slovakia⁴⁵

In Slovakia, the concept of untaxed income was introduced in the case of natural persons, and there are a number of options to reduce the tax base. Regulation facilitating cooperation in Slovakia includes the opportunity for business associations to grant 1.5% of their taxes to NGOs or public benefit organisations and natural persons performing voluntary work may grant 3% of their taxes to such organisations, and natural persons not performing voluntary work have the possibility to grant 2% of their tax to such organisations.

The detailed rules are set forth in Annex A Part 8⁴⁶.

II.2.11 Slovenia⁴⁷

The key tax types in Slovenia are VAT, corporate tax, personal income tax; the detailed rules are described in detail in Annex A Part 9⁴⁸.

Exemption from paying VAT is also available for those engaged in agricultural activities, if the combined cadastral income calculated for all members of the farm is less than EUR 7500 in the past calendar year (Article 94 of VAT Act/Zakon o DDV 94. člen). These farmers are entitled to receive compensation for their sales of agricultural and forestry products, equalling 8% of the sales price.

II.3 Supporting start-ups

A key regulation is which provides material assistance for new enterprise given an opportunity to run a test operation, whether as sole entrepreneur or a cooperative. Good examples include new enterprise status that is given for a year or even for 5 years to operate in a preferential environment. Preferential regulations in some countries allow the newly established enterprises to operate without paying an initial capital, or they may receive reductions in income taxes, and the burden of contributions relating to employment may be more facilitated.

II.3.1 Austria

The rate of corporate tax⁴⁹ in Austria is generally 25%. Limited liability companies (GmbH) pay a minimum rate tax, at a rate of 5% of the statutory minimum capital, that is, EUR 1,750 per year. In addition, corporate tax credit is available to limited liability companies established after 30 June 2013, for a period of 10 years. Accordingly, in the first five years from establishment of a company they shall pay EUR 500 per year, then in the next five years they shall pay EUR 1,000 per year.

II.3.2 France⁵⁰

In France, to facilitate the first settlement, the state provides subsidy for young farmers⁵¹. These subsidies take the following forms:

- capital injection (cash)
- mid-term loan

In addition, young farmers receiving state subsidies

- in the first five years they shall record only 50% of their profits from agricultural activities as revenue (representing a 100% reduction in the year of payment of the capital-based subsidy).
- they receive a 50% reduction of real estate tax imposed on an unbuilt property and land for a period of 5 years (with local authorities having the powers to reduce the outstanding 50% portion).
- if aged between 18-40, receive partial exemption from payment of social security contributions under agricultural social insurance (MSA), at their first settlement (the discount is not related to the state subsidy).

Start-up enterprises receive assistance in the form of running a test operation of a business for up to three years. It means that the project owners are not required to pursue their activities in a legal entity form, to establish and register company, but their activities are registered as a “newly started enterprise” by the authorities, and the project owner is responsible for the

development of their own products. These newly started enterprises are created by a CAPE-contract (Contrat d'appui au projet d'entreprise)⁵².

II.3.3 Poland

Start-up enterprises may pay their corporate tax at the initial rate of 15% rather than the general rate of 19%.

II.3.4. Romania

In Romania, the so-called initial enterprise form exists, namely the initial limited liability company (*Societate cu răspundere limitată debutant* – SRL-D). This type of company transforms into a traditional limited liability company when its annual sales revenue exceeds EUR 500 thousand, or when three years passed since its registration. Its advantage is that the enterprise receives discounts in paying social security contribution for a period of three years, if it has employees, and the registration costs shall not be paid. Furthermore, an application may be made to receive a non-refundable state subsidy of EUR 10,000 (a portion of 50% of the funds must be available for the applicant).⁵³

II.3.5 Slovakia

Self-employed natural persons (private entrepreneurs)⁵⁴ shall not be registered at the Social Security Institute in accordance with their activities in the year of starting their activities, and they shall not pay⁵⁵ social security contribution.⁵⁶

II.3.6 United Kingdom

Initial self-employment private entrepreneurs shall not pay national insurance after self-employment, until the business reaches the profit of £6,025.⁵⁷

III. Legislations facilitating access to markets

One of highest level of cooperation in facilitating access to market is operation in cooperative form, and for this reason, we discuss provisions for cooperatives in a separate subchapter. There are several ways for a cooperation in cooperatives for those interested in collective action. As there are large number of international research projects dealing with cooperatives, this subchapter covers only an introduction and overview which may assist in choosing between the various options.

Besides family based and organisational form of cooperation, further methods of collective actions facilitating access to markets are also identified among best legal practices. The often-used best practice is the one when legislation promotes cooperation between farmers by allowing them to sell products other farmers' product or process it to a smaller quantity and sell them as their own products.

Access to markets is significantly promoted by cooperation between farmers and consumers formulating along short food supply chains (SFSC). SFSC-type of cooperation is also supported by EU, recognising their efficiency, flexibility and positive social impacts.

In order to establish a support scheme, the European Commission defined the term of SFSC in the European Agricultural Fund for Rural Development (EAFRD) Commission Regulation no 1305/2013 as follows: a supply chain involving a limited number of economic operators, committed to co-operation, local economic development, and close geographical and social relations between producers, processors and consumers.

A number of projects deal with the interpretation of SFSCs and describing best practices⁵⁸, and a number of EIP focus group works is also connected to the subject⁵⁹. The EIP focus group members (2016) regarded short food chains as much more than simply a tool for improving farm incomes. SFSCs can also be seen as a means to restructure food chains in order to support sustainable and healthy farming methods, generate resilient farm-based livelihoods (in rural, peri-urban and urban areas) and re-localise control of food economies.

This chapter therefore presents legislation promoting access to markets used in SFSCs, which foster the group options for direct sales.

III.1 Cooperatives

Cooperative is a form of collective action. Cooperative and the cooperative movement has a long history. The drivers of its formation and development varied from country to country. In the United Kingdom, the cooperative movement has evolved in line with the labour movement since Roachdale⁶⁰. By the end of the 19th century, the evolution of cooperatives was driven by market benefits especially in Denmark and the Netherlands. While in this period, cooperatives in Germany, Austria and Hungary were trying to help the socially disadvantaged, in other words, the first cooperatives were mutually beneficial credit institutions commenced at the initiative of Friedrich Wilhelm Raiffeisen⁶¹. In Finland, the cooperative movement was a tool in the fight for and achievement of, independence at the beginning of the 20th century.

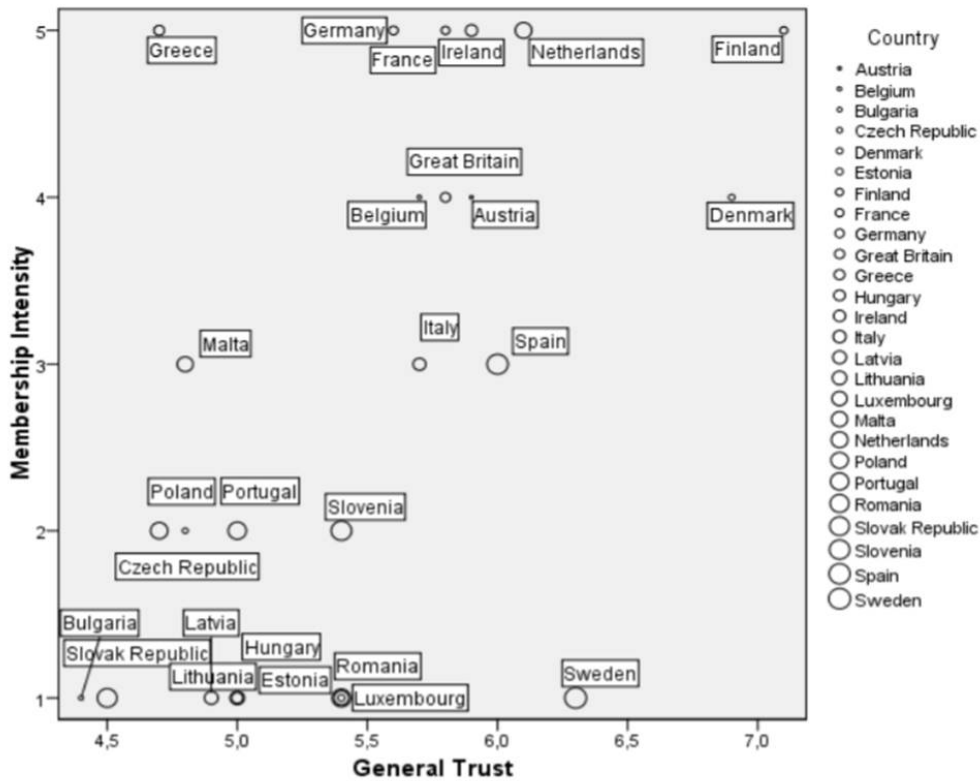
In Central-Eastern European countries, the cooperatives movement was interrupted in its development for more than 50 years (1945-1990) under the socialist system. As a result of collectivism, Soviet-type wage-based cooperative, kolkhoz (farming collective) and large state-owned farms operated. It was only until the breakdown of the Soviet Union in the 1990s that these countries had the possibility of market-based operation, including independent agricultural activity of farmers⁶².

After 1990, the development of a market economy from the state-owned economy was a long-term process in the former socialist countries. This transition period lasted well into the 2000s, when privatisation, the transformation of state ownership into private ownership, took place, including restructuring of socialist type of cooperatives and their respective regulations. For example, it was in 1992 in Hungary when the new Cooperatives Act was adopted, which was then amended significantly in 1994, while repealed in 1995. Then new cooperative Act was enacted in 2000, which was replaced by another Act in 2006, and finally, the newly codified Civil Code was passed in 2013 which embodied provisions for cooperatives within the part on legal persons. According to Vallasek (2007)⁶³, in Romania the legislative process relating to cooperatives is chaotic: the Cooperatives Act was passed in 1990, which was followed by a number of other laws and decrees, which were then amended or repealed many times by other laws and decrees, and this trend of adopting, amending and repealing laws and decrees continues to date in Romania. Thus, there are many factors that influence farmers' willingness to co-operate, and unfortunately this includes legal uncertainty.

Consequently, due to differing historical and economic developments in the European Union, it is not possible to discuss and address the issue of co-operation in a uniform way.

Social capital

The EFFP⁶⁴ study has revealed that despite the fact that farmers are largely aware of the benefits of co-operation and that it strengthens their market positions, but in a number of countries for historical reasons there is a strong resistance to cooperation in the form of cooperative or producers' organisation, especially when significant investment is required, either financially or by level of commitment. The EFFP study has shown as key reason why farmers are not willing to join a cooperative, is a perceived lack of autonomy. Farmers could only be motivated to cooperate in the form of a cooperative if they were convinced that cooperation has more advantages than disadvantages. As a legacy of collective socialist farming farmers in Eastern-European countries have very limited business and marketing expertise and experience in collective actions, and bottom-up initiatives are also missing. Eastern-European countries are currently facing the challenge that farmers must be familiarised with cooperatives and the cooperative movement.



1. Figure: The relationship between trust and cooperative performance)⁶⁵

What is a cooperative?

Cooperative is a form of enterprise, other than corporations, which recognises its evolution over entrepreneurial approach in other words, covering also social and mutual issues. The operation of the cooperatives according to the Rochdale principles dated 1844, which was redrafted by the International Cooperative Alliance (ICA⁶⁶) in its Manchester Declaration.

In some countries, the cooperative principles formulated by the ICA are explicitly referred to in the national cooperative legislation itself, such as the Spanish, Portuguese and Romanian Cooperative Laws.

- Principle of voluntary and open membership,
- Democratic control by members;
- Economic participation of members;
- Autonomy and independence;
- Education, training and information;
- Cooperation between cooperatives;
- Responsibility for the community.

According to the general definition of cooperatives provided by ICA, a cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

The social significance of cooperatives is acknowledged by the Italian Republic in its Constitution (Article 45) by declaring principle of the mutual and non-profit based: *“The Republic recognizes the social role of cooperatives as mutualistic in nature and does not have any private speculation purposes. The law promotes and favours its expansion with the most suitable means and assures, with the appropriate checks, its nature and aims.”*

National legislation relating to cooperatives are diverse in nature. In certain countries, separate Act governs cooperatives (Spain, Portugal, Romania, Croatia, Slovenia, Norway, United

Kingdom, etc.), in other countries, the relevant Civil Codes have provisions on cooperatives (Italy, France), elsewhere it is regulated in the commercial Act (Slovakia), or in the Act on Companies (Czech Republic). It means that in certain countries, cooperatives may operate in a sui generis cooperative form (and consequently the corporate name must bear the inscription “cooperative”, e.g. in Poland and in Hungary), while in other countries cooperatives may operate in any corporate forms, e.g. in France and in the United Kingdom. The list of laws and decrees relating to cooperatives is set forth in Annex B⁶⁷.

As regards the members: in certain countries, the required minimum number is to form a cooperative is very high: for example, in Poland (10), in Hungary, Croatia and Germany (7), in Romania and Slovakia (5). In contrast, in Finland a cooperative may be formed with one member only, however, the general number is three.

Types of cooperatives are grouped according to the activity done for their members⁶⁸, thus, there are consumer, production (covering also agricultural cooperatives), financial, social and housing cooperatives. Interestingly, in Norway, legislation expressly prohibits cooperatives from engaging in financial, banking and stock exchange activities.

Cooperatives have traditionally been established for self-help and mutual purposes, however, in Western Europe cooperatives are in transformation, more and more cooperatives enter into international markets. Due to the globalised commercial challenges, new business and marketing strategies and administration-management schemes had to be formed to preserve their competitiveness. As a result, the concentration of cooperatives has taken place, united to federations of cooperatives and have become conventional similar to that of agro-industrial companies where farmers have only little influence on the management. It also means that democratic decision-making mechanisms with the involvement of members have been replaced by the management decision-making. Moreover, in a number of cases, to ensure effective operations, cooperatives set up companies to carry out some of their activities or reorganise themselves into a business enterprise.

Cooperatives differ from other business organisations in the way that they operate on democratically, with one member-one vote principle. Recently, the new global commercial challenges have loosened cooperative basic principles, in terms of ownership, control and shareholding by the members of cooperatives.

The principle of one member-one vote is no longer an unquestionable component in all countries in relation to cooperatives. In Austria, Spain and France, the degree of the voting rights is proportional in participation in the operations of the cooperative. Disproportionate voting rights are also possible in Portugal, however subject to a number of restrictions and may apply only for cooperatives operating in certain sectors. Differentiation in relation to votes, based on whether the members of the cooperative consist of natural persons only (first degree), or may consist also of legal entities (second-degree), as in Finland, where cooperatives consist largely of cooperatives or other legal entities, such members may as well hold 10 votes. In Norway, legal entity members of cooperatives may have more than one vote.

Undercapitalisation, or inadequate supply of capital represents a continuous problem in the operation of cooperatives. To address this issue, Germany provides the solution that members providing “extraordinary contribution” may have a maximum of three votes. In Spain, the law allows investor members with a rate of not more than 15% of all members. This figure for Hungary is 25%. Investor members may not participate in the operation of the cooperative, do not use services provided by the cooperative, and their right to vote is generally limited. In France and Italy, the investor members have the right to vote in proportion to the capital they have provided.

Minimum capital requirement is set forth in the legislation of Croatia (EUR 130), of Portugal (EUR 1500), of Romania (first degree EUR 114, second degree EUR 2,275), of Slovakia (EUR 1,250). At the same time, provisions usually set forth contribution by the members in cash, e.g. in Hungary.

The Statistical data collection of the International Labour Organisation of the United Nations in relation to the cooperatives considers cooperatives as for-profit organisations where laws (and the Articles of Association accordingly) allows members of the cooperative to distribute its profits earned from capital investment⁶⁹. It is allowed in Austria and in Romania, while in Portugal, payment of interests is allowed up to 30% of net revenues.

The typical objective of the operation of a cooperative is to facilitate transactions with the members, rather than by earning return on capital provided by the members. It means that the rules allow distribution of surplus earned in the various transactions, in proportion to the transactions made with the particular member. In Finland, Act on Cooperatives expressly states that the cooperative may perform services to external persons in addition to the members, while in France and Spain it is subject to limitations in relation to turnover.

To ensure effective and permanent operation of cooperatives, there must be an appropriate pool of resources in place, including financial conditions and the taxation. It will boost their market competitiveness, while preserving their mutual, solidarity and democratic operation. In Italy, mutuality stands in the centre of the cooperative model, which is supported by various benefits under Italian law. As far as taxation of profits concerned, most cooperatives are not taxed on 57% of their profits, being allocated to indivisible reserves, others have different percentage such as consumer cooperatives that don't pay taxes on 32%; the agricultural cooperatives on 77% and the social cooperatives on 97%.⁷⁰ This tax credit is available for the cooperatives provided that they apply the mutuality rule set forth in Article 2512 of the Italian Civil Code⁷¹, in other words, where the cooperative perform its functions mainly to the benefit of its members or those covered by its scope of operations, and the Articles of Association of the cooperative must expressly state that dividends and profits are distributed in view of the restrictions laid down in Article 2514 of the Italian Civil Code, and that it will comply with the rules relating to the utilisation of reserves.

This report covers many aspects of small farmers in terms of their operation and the legislative grounds underlying their market opportunities. The rationale in so doing lie in our conviction that small farmers will be convinced by robust financial results to form a collective action with other farmers, service providers, and it may be achieved for example in cooperatives. Generally speaking, operation in small enterprises and as small farmers yield less revenue for the entrepreneurs and farmers, and it is acknowledged in the VAT regime of the European Union by allowing the Members States to provide VAT exemption for enterprises with revenue not exceeding a certain amount⁷². At the same time, small farmers may establish a cooperative to have a better position to sell their products, and thus their sales volume exceeds the VAT exemption threshold they enjoy on account of their VAT status in many cases. Thus, cooperatives charge VAT on each of their goods sales and all other transaction of theirs. It has no impact on enterprises doing business with cooperatives that are themselves subject to VAT: In accordance with the universal VAT-procedures, these legal entities simply offset the VAT charged by the cooperative against their cumulative VAT liabilities, and cooperatives offset the VAT charged by their clients as against their own cumulative VAT liability. Thus, they pay the exceed VAT over to the tax authority. In contrast, small farmers not registered to VAT are at a disadvantage. First and foremost, they cannot offset the VAT they charge in their transactions as against any VAT amount, resulting in an increase in costs. Secondly, cooperatives are obliged to calculate the full amount of VAT charged in all transactions with small farmers, and they must pay all amount of the VAT to the Tax Authority, rather than the incremental amount arising at

the last taxpayer in the VAT chain. Of course, cooperatives attempt to charge this additional cost to the other small farmers, paying less for the received goods as otherwise would do. Small farmers are therefore clearly at a disadvantage when they sell products to cooperatives (or any legal entity) or when they buy products from them.

There was an example which resolved this issue, that is unfortunately by now ineffective, namely that in Moldova the Tax Code [version 2013, Part III, Chapter 4, Article 103 (1) (22)⁷³], which provided tax exemption in relation to agricultural services of cooperatives to the members.

Stops members being taxed twice (Corporation Tax and Income Tax)

Another good example is from the United Kingdom, where rules allow members not to pay tax twice (i.e. corporation tax and income tax) by way of cooperatives registering mutual trading status with the Tax Authority⁷⁴. It is subject to very strict rules in terms of its application. It is available for cooperatives engaged in trades only and exclusively with its members. It means that community benefit societies may not be granted this status, because they provide their services to a wide spectrum of the society and not just their members. The Articles of Association must provide that profits may be distributed among its members only, or where no profit is distributed, it must be placed in the reserves of the cooperative, and this reserve may also be distributed among the members of the cooperative only. It allows cooperative members to avoid being subject to double taxation (in terms of corporate tax paid by the cooperative and the personal income tax paid of the cooperative member), and the profits are taxed when paid to the member. In France provides similar tax regime for the cooperatives in the case cooperative pursues services only to the benefit of the members, in which case this activity is tax exempt under the Tax Code.

In Austria agricultural activities are fostered by a special and supportive tax system. There is a similar supportive good practice in the taxation for agricultural cooperatives. Pursuant to these rules, wine-producing cooperatives established exclusively for the purchase of agricultural inputs and/or processing of self-produced raw materials are exempt from corporate tax.⁷⁵

The members of the BOND consortia have shared best practices in their country relating to cooperatives. The French CUMA is described in Annex C, while the Norwegian cooperative system is described in Annex D and Annex E describes legislation in more detail relating to cooperatives in the Czech Republic, Poland, Norway, Italy and Romania, provided by the BOND partner countries. All annexes are at www.kisleptek.hu under Publikáció/BOND Publikáció.

III.2 Competition law and agricultural cooperation

The purpose of competition law is to ensure that markets operate properly, i.e. competition friendly and for the benefit of customers. However, in agricultural, it is not enough to consider solely public interest in competition and the resulting consumer welfare benefit, but the cyclical nature of production, exposure risk from external factors (in particular weather), the different market positions of individual market operators and consequently their different bargaining power arise in this sector specifically.

Additional structural characteristics of agricultural sector, especially in Eastern Europe, is the small holding sizes, the lower concentration levels than other verticals and the lack of integration forms. Another source of weakness of holdings may be the difference in strengths and lack of knowledge.

Competition policy

ensures the fair competition between companies and serves the interests of consumers through the application of competition law rules in order to enable for customers to benefit from the advantages of a free market, provide a wide choice for them and contribute to the reduction of prices and the improvement of quality.

Competition authorities check the following areas in favour of maintaining the competition:

- cartels, namely agreements between companies that restrict competition (e.g. which fix prices, share markets) [TFEU Article 101]
- abuse of a dominant market position (squeeze out competitors from the market) [TFEU Article 102]
- distortive state aid (e.g. state loans and non-repayable subsidies for enterprises, tax allowances, sale of goods and services at discounted prices, state guarantees) ([TFEU Article 107]
- audit procedure of concentrations between undertakings (company merger, company union, by which they control a too large market, and acquire domination) [European Community Regulation No 139/2004]

Common Agricultural Policy (CAP)

Article 39 of the Treaty on the Functioning of the European Union [TFEU] determines the objectives of CAP:

- a) to **increase agricultural productivity** by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- b) thus to ensure a **fair standard of living** for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- c) to stabilise markets;
- d) to assure the **availability of supplies**;
- e) to **ensure that supplies reach consumers** at reasonable prices.

Agriculture is a key economic area of the European Union, which has introduced a special policy, the European Common Agricultural Policy with the basic aim of ensuring food security in Europe.

In addition to the Common Agricultural Policy of the European Union, Member States also intervene to the agricultural sector to treat the potential disadvantages by subsidies, intervention, quotas, tax allowance, extra legal protection, etc. Otherwise, these measures would infringe restrictive agreements, prohibited concerted practices and the abuse of dominant position prohibited by the competition law of the EU, since these would cause distortion in the competition.

The Treaty of Rome, than the Treaty on the Functioning of the European Union

(TFEU)⁷⁶ affirmed the primacy of the Common Agricultural Policy⁷⁷ over competition rules and that, in general, market organisation measures do not breach the prohibition of competition.⁷⁸ It means that competition rules allow the producers, through producer organisations or other type of organisations, to cooperate,⁷⁹ harmonise their market actions, by which they may become more efficient, competitive and even their bargaining power may increase with their business partners.⁸⁰ Typical forms of the cooperation are producer organisations. Detailed rules are in EU Regulation 1308/2013 (the CMO Regulation)⁸¹.

The CMO regulation lays down general and special derogations, which allow farmers to cooperate in joint trading activities that would be otherwise prohibited.

General derogations: The general derogation covers all agricultural products within the scope of the CMO Regulation and all agricultural products exempt from the EU competition rules agreements, decisions and practices, that relate to the production of or trade in agricultural products if they are necessary for the attainment of each of the CAP objectives; and of farmers, farmers' associations, associations of such associations, or recognised POs concerning the production or sale of agricultural products.

Specific derogation: The specific derogations relate to three sectors: olive oil, beef and veal and certain arable crops and to the related activities of producer organisations.

The European Court of Justice has also declared that agriculture is not a "competition-free zone" as the TFEU (Articles 40 and 41) explicitly determines rules on competition. However, competition itself, in agriculture is not a goal but an instrument to implement the objectives of the CAP.

The CAP post 2020 – proposals

According to the proposal commissioned by the European Parliament's Committee on Agriculture and Rural Development,⁸² the CMO's new competition rules should be further consolidated and clarified in order to strengthen the bargaining power of farmers and their associations:

- necessarily escape the application of the competition rules for the tasks and objectives of the organisations defined by the CAP;
- the decisions and practices of farmers and their associations are presumed to be lawful, the decisions of the competition authorities only have effect for the future;
- allow European farmers to charge common transfer prices (as North American farmers have done since the Capper Volstead Act of 1922);
- the collective bargaining activity in the name and on behalf of farmers members of the organisation concerns only non-commercial structures without transfer of property;
- extend the scope of the Unfair Trade Practices Directive within the agri-food chain to cover all agricultural products and foodstuffs, in it to all suppliers including non-SMEs.

III.3 Other good practices on cooperation between agricultural producers in the sales of their products

Generally, success in sale cooperation not only depends on regulatory environment but on farmers' innovation, successful use of trademarks and marketing. During our survey on best regulatory practices project partners have also emphasized other aspects of cooperation, including:

- a) **Online sale:** In the Czech Republic, the website of the Register of Farmers⁸³ features small and mid-sized farmers, bakers, and milk production farms, systems, small stores supported by consumers (in community supported agriculture), as anything relating to local products, with 500 enterprises registered in the system, and farms and businesses in the register may also be assessed from a number of viewpoints.
- b) **Strategic agreements:** In Norway, under the Trøndersk Food Manifest⁸⁴, regional and local businesses entered into an agreement to promote food production and develop cuisine in the Trøndelag region. In Milan, Bristol and many other places, a Local Food Strategy⁸⁵ has been elaborated. The essence of these strategies is that by cooperation of producers, municipalities, public kitchens and local enterprises, local food products are delivered to consumers, in addressing the needs of society. In a number of cases, these forms of cooperation are coupled with provision of social care (with the involvement of school pupils or members of handicapped groups in production), which may also allow production of other public benefit items.
- c) **Operation of alternative sales channels:** In Norway, community supported agriculture is called REKO-network, where farmers sell their own products, at the same location and time. The consumers place their orders via a Facebook-group⁸⁶. Community supported agriculture (CSA) operates in a number of countries. Its foundations were laid down in France in the AMAP system (Associations pour le Maintien d'une Agriculture Paysanne, which stands for Association to Maintain Peasantry Agriculture). The idea of AMAP came to Daniel and Denise Vuillon in 2001. They created their system of sales along classical CSA principles, which is similar to the sales channels of a U.S. farm. Their system proved so successful that in France alone more than 2,000 AMAP systems are in place, and they are also present in nearly all European Member States. In France, AMAPs are interest groups in a legal association form. In the case of AMAPs, consumers are fairly highly committed to the system (e.g. in terms of payment in advance for a season), which is not particularly the case with all CSA systems. The CSA/AMAP system is based on the community principle of directly connecting consumers and small farmers. In so doing, the mediation costs and the profits of traders are reduced practically to zero. In the system, consumers can get fresh and seasonal selection of healthy organic products at reasonable prices. A key element of the AMAP system lies in organic production not being compulsory (although highly recommended, even expected), and no artificial fertilisers may be used during production in the farm.

Consumers commit themselves to a local small farmers for a year (in case of CSA, it may also take a shorter period of 3-6-9 months), undertaking to buy products made by this farmer packaged in boxes (fruit, vegetable, egg, bread, cheese, etc. according to the product range of the particular farm) during this period of time, on a weekly basis, in a pre-financing system. In other words, the farmer receives the funds necessary for production in advance. In exchange, farmers undertake to produce vegetables or other products to the best of their knowledge and skills and to deliver these products to a point of distribution at a pre-arranged date or deliver the same in their farms. A key constituent of the system based on the sharing of risks. In other words, consumers will receive less of certain products or more from other products, in accordance with the characteristics of the particular production year.

In Italy, social consumer groups are also promoted in the legislative framework. In Croatia Grupe Solidarne Razmjene – GSR (community supported agriculture) well operates in practice. In the Czech Republic, Polopo Limited Liability Company⁸⁷ sells local and organic products, and Lokalmart Limited Company⁸⁸ is engaged in selling

the products of small and mid-sized farmers all across the Czech Republic, in accordance with the French system named *La Ruche qui dit Oui* (“the Hive that says yes”). It is a community sales channel, in which an organiser collects orders and delivers the products at a point of delivery, at a margin of 7.5%. An important feature of the system is that no warehousing costs incur, operational costs are reduced to the minimum, and this is the reason why they can sell at low prices.

- d) Sales in innovative manners:** Innovation may be of technological nature (vending machines selling local products) or of social nature (e.g. alternative channels or market organisation methods). In a number of cases, devoted civil organisations and natural persons do the hard work of organising the market for local products, organisation and control taking a lot of time and effort. An interesting example includes the operation of Montevarchi market⁸⁹ in Italy, where farmers and the market enter into a supply contract, determined the type, quantity and quality of products to be sold. Controls are performed by the market itself. Separate agreements define the range of products deemed as local. The farmers contribute towards the maintenance of the market by providing 10-15% of their revenue. The market operates with a single cash-register, and voucher is issued by the farmer of the product according to a bar code. Sales data are collected by using special software, which controls accounting and allows calculation of the income earned by the farmers, in accordance with the quantity of the products sold. There is also a possibility to process food in the market, to organise a cultural event, and to organise presentations, training sessions, events being part of life in the countryside.

One of the most obvious legal solutions enabling access to markets includes laws allowing farmers to sell the products of other farmers to a small extent, without deeming such activity as a commercial enterprise. There are examples from Croatia, Austria, Italy and France. Another specific legal solution is when regulations allow for a special common form of sales of farmers, is the case in France, Italy and Austria.

Good examples from various countries

III.3.1 Austria

One of the remarkable sales opportunities that encourages co-operation is the joint sale farm shops (*Bauernladen-Gemeinsamer Verkauf*) in Austria. In practice, it means a co-operation of small farms. Pursuant to Article 1175 of the Civil Code⁹⁰, this form of cooperation has no legal personality but is a civil law partnership or operates in the form of association under the Associations Act⁹¹. It not required to obtain operational permit or to be recorded in any registry. According to VAT Act⁹² such a joint sales point has a quasi-legal personality. In essence provision of capital, financial contributions or labour to attain common benefits. It is important for invoices issued on the sold products to bear the name and tax number of the farmer produced the product, and the farmers takes turns in selling their products.

III.3.2 France

The way as agricultural activity is defined in France (as presented in Chapter V) allows farmers to sell products of other farmers in addition to theirs, provided they represent less than 50% of total sales. In a number of countries, joint sales of farmers are possible only in an incorporated form. In France there exist a number of other forms of cooperation, of which joint sales points are worth being described in more detail.

Joint sales points/producers' shops, in French PVCs (point de vente collectif)⁹³ may be operated in a number of legal forms, one of which is very often used is GIEs (Groupement d'intérêt économique)⁹⁴, or economic interest groups. The purpose of the GIE is to facilitate or improve the economic activities of its members and to enhance and increase their efficiency. As GIEs sell products at acquisition price (without buying the products, as it is a group sales form rather than an intermediary), in other words it earns no profit on the products received from farmers, and thus GIEs are exempt from paying VAT. GIEs invoice their payable VAT to the farmers who are then liable to pay VAT. Thus, GIEs sell products as an "association", and charge its members with their actual VAT together with the payment of the price of the products in its monthly/quarterly/semi-annual/annual accounting. The minimum number of the members is two, with no cap on the maximum number of members.

The sum of "commission", or members' contribution or membership fee varies. GIEs may use this sum to pay rent, wages, bank card service fee, and to pay any other costs incurred by the farmers.

Joint sales points (point de vente collectif - PVC) may sell products of farmers that are members of the particular PCV. The members make a decision on the management and legal form of operating a PVC jointly. PCVs may also take the form of agricultural cooperatives, an example is Cuma terres d'ici en Aveyron. The products remain in the ownership of farmers as long as they are sold to customer, so it is deemed to be a direct sale (short food chain), PVCs are in fact sales channels rather than intermediaries. Any unsold product stays with the farmer's disposal. The sales via PVC as a direct link remains agricultural activity for tax purposes. The sale transactions are settled in a contract concluded by PCVs and farmers.

III.3.3 Italy

In a number of Italian regions, regulations have been passed to promote short supply chains, which were largely related to commercial activities. Some examples include⁹⁵:

- In Sardinia, regional decree no. 1/2012 provides for an increase in the proportion of local products in public catering, in Friuli, regional decree no. 4/2010 provides for the same;
- In Friuli, regional decree no. 4/2010 provides for the promotion of sales of local products in small retail shops, in Lazio, decree no. 29/2008 and in Puglia, regional decree no. 9/2009 provides for the same;
- In Lazio, regional decree no. 29/2008 provides rules on online sales, creating a seller group operating similarly to buyers' group of consumers.

In Italy the Filiera corta and GAS initiatives shall be emphasised as unique good practices.

In the framework of **Filiera corta** more and more consumer movements have started in the recent period, which aims to restore the significance of agricultural production, processing and origin and lead us to shorten the food supply chain, which ensures the preservation of local values as well as provides responsible and socially based production that safeguards the values of nature.

In response to that awareness the Tuscany Region introduced its 5.3.3.2.1. measure (Misure intese a migliorare la qualità della vita nelle zone rurali) during the programming period of Rural Development Program 2007-2013 granting financial funds for the fostering of farmers' markets in rural, less developed areas.

The other institutional form of subsidies is set out in 335/2007 DGRT (decree of the Regional Government of Tuscany) on Filiera corta – Rete regionale per la valorizzazione dei prodotti

agricoli toscani, i.e. Short Food Supply Chain - Regional network for the enhancement of Tuscan agricultural products. This is a Tuscany regional project which gave a tremendous input for the short food supply chain in Tuscany. There were several calls for enhancing short food supply chains during 2007-2009. The calls granted 80 % non-refundable subsidy with the conditions that the project must be self-financing within a three-year period. Funding enabled to open covered market with some 50 local producers in Montevarchi in the province of Arezzo and the Dal podere al palato [From the Farm to the Palate] with 10 producers in the province of Siena started its operation. This programme also supported the creation of well famous oil, cheese and wine tasting routes and their networking in Tuscany. The main mission of the project was enhancing the diversified, i.e. multifunctional agricultural production with a sustainable way, i.e. for long term. Consequently, the development of the artesian production and agritourism was also part of the project.

The filiera corta decree regulated mostly agricultural activity providing that such persons are eligible for grants whose annual income does not exceed EUR 7,000 and the at least two thirds of the income comprises from the activities listed in a separate regulation. The program allowed the participation of sole farmer and also groups of farmers, including the sale of third party's product. An important part of the regulation was that farmers meeting the above criteria could sell their products free of VAT.

The legal basis of the above was laid down in the Italian Law on Orientation, which allowed the diversified operation of the peasant farm and the collective sale of farmers through collective action. The Law on Orientation did not lay regulate specific commercial activities of farmers but defined a farmer in Article 2135 of the Codice Civile as a special legal entity. The Law on Orientation was already discussed in more details in Chapter V.

The law on trading are regulated on regional level and in many cases even on local level in Italy. These regional/local regulations are creating a favourable regulatory framework in promoting and developing local products and specially that locally produced products find local food supply chains, in many cases aiming to balance, directly or indirectly, to counteract the proliferation of multinational food chains. This is also very much in line with the CAP's rural development policy.

The solidarity buyer group GAS (Gruppi d'Acquisto Solidale) is a bottom-up group form of consumers, which is also acknowledged by the Act of 2007 on state budget⁹⁶, and which is defined as a non-profit association. They have been created in order to buy products and distribute the same among the members of the group, without seeking to make profit, with ethical, social-solidarity and sustainability of environment objectives. Regulations allow these groups to pursue business operations under the tax rules relating to non-commercial enterprises.

Direct sales in a public or private area of the farmer is only to be notified prior to its commencement at the municipality of the place of the sale without waiting approval. The same simplified procedure applies to itinerant sales (Article 27 of Decree no. 5/2012).⁹⁷

Access to markets may be facilitated by elaborating complex service packages, one of the means being agritourism. Pursuant to Decree No 228/2000⁹⁸, farmers providing agritourist services must participate in a regional training, which grants a certificate to the participants at the end of the course. The health and hygienic requirements relating to buildings and equipment used for agritourist activities are determined also by the regions. Requirements take into account the characteristics of the buildings and the countryside, the size and interior height of the rooms, and the specificity of the activities to be performed there. The hygienic authority considers the diversification of the activities, the limited quantity of the produced products, the traditional processing methods and the processing of self-produced agricultural products in

imposing the requirements and in performing controls. In this scope of operations, accommodation may be provided for a maximum of 10 persons, and the farmer's own kitchen may be used to make meals for catering for a maximum of 10 persons, as well.

III.3.4 Romania

Pursuant to Article 13 of Decree no.145/2014⁹⁹, 40% of commercial areas (applies to retail and wholesale as well) must be reserved for local farmers (those obtaining small farmers' certificate).

Traders with turnover of, or exceeding EUR 2 million must supply at least 51% of certain products, i.e. meat products, egg, vegetables, fruit (excepting tropical fruits), from the short foods chain¹⁰⁰. On 15 February 2017, the European Commission has launched an infringement procedure under number 20162148, as in its view, this regulation violates EU law, particularly derogating the principle of the free movement of goods. According to the site of the European Commission¹⁰¹ on infringement procedures, the case is currently active¹⁰².

III.4 Joint action for local and traditional foods

Geographical, origin and traditional special product indications based on EU laws¹⁰³ clearly state and ensure in any Member State connection and linking of products to particular places and their uniqueness.

In certain Member States, these geographical designations are markedly applied in the marketing of local products, and in other Members States, they are used less markedly. The EU runs a common registration site¹⁰⁴ (DOOR), which shows the range of products having been registered by the Member States, and which products are currently being registered.



2. Figure: Geographical, origin and traditional product indications

Source:

https://en.wikipedia.org/wiki/Geographical_indications_and_traditional_specialities_in_the_European_Union

Certain EU regulations relating to products with traditional features impose the conditions under which Member States may allow certain adjustments of legal requirements relating to hygiene. With a view to making products with traditional features, in certain cases, more flexible rules need to be formulated, which corresponds with the rules applicable to facilities in regions subject to geographical limitations, provided that they do not jeopardise hygiene and food safety. After identifying economic problems and vulnerability, pollution of the environment and social tensions, and inequalities caused by the economic crisis, in the European Union, development initiatives and supporting legislation have gradually become the

underlying drives of change aimed at the solution of social and environmental problems, in addition to development of economy.

Member States and cooperating entities are more or less successful in facilitating access to markets for local and regional products by introducing national trademarks, marks and labels.

In the **Czech Republic**, a logo and site for regional products¹⁰⁵ has been developed.

In the North Island of the **Netherlands**, the introduction of the quality certificate label "Waddengold" proved a success. **In Spain, in Valencia**, a participatory certification system is in place for the certification, awareness-raising of agro-ecological products, while in France, a certification system by the community has been created in the URGENCI¹⁰⁶ project.

In **Austria** the slogan is "new organic is the regional" as claimed by the experts of AMA in Austria. It is also shown in the higher price of the products in Austria, which promotes economic sustainability, and labels certifying regional feature of the products also promotes access to markets.

Genuss Region (Taste Region): the first complex national programme **in Austria**. In 2005, the Austrian Ministry of Agriculture and the AMA Marketing GmbH created the collection and the label, following the French Euroterroirs example. Currently, the system covers the products of 120 regions. Regions mean the lands and settlement areas around the particular farmer and products within the range of 50-100 kms. Under the criteria system, the product must be produced from the product range, production method and traditions characteristic of the region, the raw materials must be made locally, and processing and product quality must be higher (according to the standard). The products must be of the quality required for the current AMA labels and EU geographical designations. A further requirement includes a regularly held national event organised on these products. After its commencement, the members (farmers, food processing enterprises and service providers in tourism) must participate in three training courses to facilitate cooperation and for brand building. The seminars will cover assessment of the range of products the region is capable of producing in terms of quality and quantity, sales channels and the objectives they wish to attain. They create an operational concept, and action plan, which also covers marketing action.

In 2008¹⁰⁷, the law-making body of Veneto (**Italy**) region has passed a rule on "**zero km products**", which refers to the short distance between the site of producing and consuming products. The decree broadly supports the preservation of "zero km products", and also provided legislative grounds for the marketing and consumption of "zero km products", and for informing consumers about their origin, their characteristics and price. It also sets out rules on supporting their supply to private and public catering, to promote sales between farmers and consumers. It defined the terms of "quality products", "traditional products", "seasonal products" and also set forth regulations relating to environmentally sustainable products.

The scheme is part of incentive regulations, to ensure the use of "zero km products" in public catering, which also serves as a selection criteria in assessing bids to tenders.

Now municipalities may prescribe that 15% of market areas must be reserved for agricultural farmers engaged in direct sales to consumers. Moreover, the local area zoning plans must prescribe areas for the operation of local farmers' market.

Article 5 of the decree allows enterprises engaged in regional scope of operations, with revenues of 30% from local product sales, to use a special logo for the promotion of their local products.

The passage of the decree was preceded by a broad social movement, headed by the Coldiretti farmers association, which formulated the draft decree, which was then submitted in a petition,

with 25,000 signatures in support of the petition, seeking passage of the decree. In essence, the draft prescribed that 50% of raw materials used for public catering and catering in hospitals and other entities financed from public funding must be local product.

Legislation in relation to traditional products promotes the use of local raw materials and traditional methods in Romania.

There are a number of regulations in place in support of ensuring access to markets for products from local farmers. Such regulations include the one governing traditional product¹⁰⁸, which also defines the term of raw materials made locally. Further regulations include the one prescribing the sales of local products by retail stores. Another form of assistance is the availability of simplified administration burden and preferential tax rates for the launch of the operation of start-ups. The Romanian regulation also defines a cap on quantities under which a product is deemed traditional. The production capacity - considering 365 days for a year - may not exceed the average daily 150 kg / litre quantity for a certified product, with a cap of 400 kg daily (except for the production of bread and traditional bakery products - which may not exceed the average quantity of 300 kg per day total certified traditional product and not more than 800 kg per day total certified traditional products).

III.5 Flexibility in hygiene regulations

In the Member States, which joined the European Union recently, excessively stringent regulations (based on misinterpretations of EU regulation in many cases) were introduced for small farms, small agricultural and food production enterprises too. As a result of that, many of these have been forced to give up their activities. However, due to changes in consumer habits and other economic and social developments, there is a growing demand for local produce, artisan food from small farms, and other products from small-scale, environmentally sustainable farms. Therefore, it is important to take a closer look at the detailed measures of the regulation affecting these fields for promoting the activities of these groups.

There are options allowing flexibility in the European Union's food and food safety, hygiene legislation, but little is known about them, even though the European Commission has produced guidelines to facilitate the application of flexible options in the Member States. We will first summarize the flexible regulation options for hygiene in the introduction (more detailed than usual) by extracting from the EU rules and guidelines the sections specifically intended for preserving the production of small, marginal, localised produce, thus the traditional food production and processing as well.

The basic conditions for applying the flexible rules for an activity are that

- the activity shall be occasional;
- it shall produce products in small quantities and be marginal.

In general, EU legislation on food hygiene requirements states that food, which has been produced in accordance with Regulation (EC) No 178/2002¹⁰⁹ and Regulation (EC) No 852/2004¹¹⁰ and, for certain animal products, Regulation (EC) No 853/2004¹¹¹ and Regulation (EC) No 1169/2011¹¹², or placed on the market according to these is considered safe within the Union.

The main findings of **Regulation (EC) No 178/2002** laying down the general principles and requirements of food law are as follows:

- The term 'food' includes drink, chewing gum and any substance, including water, intentionally added during the manufacture, processing or treatment.
- Unsafe food cannot be placed on the market.¹¹³

It is important that the Annex to the Regulation contains definitions of basic terms, such as what is considered a food business (including non-profit businesses too) or what is considered a retail business (including catering too).

Regulation (EC) No 852/2004 also lays down a number of important basic food hygiene definitions, including what is considered a 'primary product' and what is a 'processed product'.

The regulation also provides for reliefs. Regulatory reliefs are justified, inter alia, when there is a direct link between the farmer and the consumer, i.e. where the food chain is significantly shortened, so that sales take place in a short food supply chain. Other aspects and conditions for exemptions can be: small quantity, marginal, localised and restricted activity.

According to the Guidance document on the implementation of certain provisions of Regulation (EC) No 852/2004 on the hygiene of foodstuffs¹¹⁴: In general, the concept of 'small quantities' includes, inter alia, **direct sales** by the farmer to, for example, the final consumer (e.g. from the farm or local markets) or direct sales to local retail stores and local restaurants selling to end users.

The preamble to the regulation sets out the principles of **tradition and flexibility**, which are in line with the Union's objectives regarding cultural diversity.

- According to recital (16), flexibility is appropriate to allow the continued use of **traditional methods** at any stage of the production, processing or distribution of food and in relation to the structural requirements of establishments. Flexibility is particularly important for regions with specific geographical constraints.

Regulation (EC) No 852/2004 (and Regulation (EC) No 853/2004) state, inter alia, that they do not apply¹¹⁵ to the following cases:

- (a) *"primary production for private domestic use;"*
- (b) *"the domestic preparation, handling or storage of food for private domestic consumption;"*
- (c) *"the direct supply, by the farmer, of small quantities of primary products to the final consumer or to local retail establishments directly supplying the final consumer."*

According to the Guidance document of Regulation (EC) No 852/2004, it does not apply to the occasional production and provision: *"Somebody who handles, prepares, stores or serves food occasionally and on a small scale (e.g. a church, school or village fair and other situations such as organised charities comprising individual volunteers where the food is prepared occasionally) cannot be considered as an 'undertaking' and is therefore not subject to the requirements of Community hygiene legislation."*

Chapter III of Annex II of Regulation (EC) No 852/2004 provides for facilitated conditions for requirements for movable and/or temporary premises (such as marquees, market stalls, mobile sales vehicles), premises used primarily as a private dwelling house, but where foods are regularly prepared for placing on the market, and vending machines. The Annex states that product manufacturers at private dwelling houses must comply with Annex I of the Regulation, on the general hygiene provisions for **primary production** and associated operations.

Records shall be kept of:

In the case of animal products, the feed, the occurrence of animal diseases, veterinary medicinal products, treatments, the results of any analyses carried out on samples taken from animals.

In the case of plant products, records shall be kept of plant protection products, in particular. Chapters V–XII do apply, and also Chapter IV in case of transportation (though Chapters I and II DO NOT). Chapter III provides:

- *as far as possible animals and pests should be prevented from causing contamination (e.g. using mosquito nets);*
- in particular, where necessary:
 - a) *“appropriate facilities are to be available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)”*. This means, for example, that if persons wearing contaminated clothes do not enter the place, where the food is produced, there is no need for a dressing room – a hallway or corridor can be used for changing clothes.
 - b) *“surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non-toxic materials, unless food business operators can satisfy the competent authority that other materials used are appropriate”*. Thus, according to this guide, solutions that have been proven to be safe by tradition should be considered safe. So clean, natural wooden pots or wooden tools can also be right. Scalding is also an appropriate way of disinfection, where it is a proven practice.
 - c) it is possible to designate one place or several rooms in a given time period for cleaning and preparing food in case of food production in small quantities at premises used primarily as a private dwelling house, using designated tools (separation in time or space can either be appropriate).
 - d) Washings must be carried out with potable water and *“an adequate supply of hot and/or cold potable water is to be available”*. If necessary, hot water can be produced by heat treatment.
 - e) *“adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available”*. It is also possible to sign an ad hoc contract with a specialist service provider. When there is such ‘hazardous’ waste, the contractor will take it to the appropriate place with a proper transport vehicle.
 - f) *“adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available”*. It is also possible to store food at a suitable temperature in a household refrigerator or in a food storage container, if cooling is required. Whether a separate refrigerator is required depends on the quantity and the product. Temperature monitoring can also be done by recording only unsuitable operation (power failure, malfunction).
 - g) *“foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable”*. This means that e.g. do not place the finished product, even in containers, directly on the ground (there must be shelves or pallets under it, avoid getting dust on the product).

Good Hygiene Practice (GHP) regulates basic environmental and operating conditions, and based on that, HACCP is for the supervision of high-risk points. According to recital (15) in the preamble to the Regulation, in certain food businesses, it is not possible to identify critical

control points. In such cases, good hygienic practices can replace the monitoring of critical control points; meaning that if there is no critical point (CCP) for a GHP activity, it is not required to operate the HACCP system, it is replaced by good hygiene guidelines. In accordance with Article 8, Member States may draw up, at national level, guides on Good Hygiene Practice, involving the relevant producer group.

Regulation (EC) No 853/2004 laying down specific hygiene rules for on the hygiene of foodstuffs should not apply either to primary production for private domestic use. This Regulation shall not¹¹⁶ (but Regulation (EC) No 852/2004 shall) apply to

- food of plant origin, - such production facilities need not be approved (registration is sufficient);
- food containing both products of plant origin and processed products of animal origin;
- the direct supply, by the producer, of small quantities of meat from poultry and lagomorphs slaughtered on the farm to the final consumer or to local retail establishments directly supplying such meat to the final consumer as fresh meat;
- retail supplying directly to the final consumer¹¹⁷. *As retail (activities involving direct sale or supply of food of animal origin to the final consumer) is not covered by the scope of Regulation (EC) No 853/2004, the approval of retail establishments is not required under that Regulation.*¹¹⁸ The term 'retail' means "activities involving direct sale or supply of food of animal origin to the final consumer". In accordance with that, the term 'activities' includes processing (e.g. the preparation of bakery products containing products of animal origin, the preparation of meat products in a local butcher shop) at the point of sale to the final consumer."¹¹⁹

*This Regulation should generally apply to wholesale activities (that is, when a retail establishment carries out operations with a view to supplying food of animal origin to another establishment).*¹²⁰ The Regulation shall not apply if the supply of food of animal origin by a retail establishment to another retail establishment is, in accordance with national law, **a marginal, localised and restricted activity**.

The Guidance document on Regulation (EC) No 853/2004 also states that '**marginal**' should include **the notion of small quantities, i.e. 'marginal, localised and restricted retail'**, since their retail products to end-users are actually traded locally. So, they are not engaged in long distance trade which requires more attention and supervision in particular as regards transport and cold chain conditions.¹²¹

According to section 3.5. of the Guidance document on Regulation (EC) No 852/2004:

- primary products can be processed at the farm (e.g. raw milk is processed into cheese), but these operations fall outside the activities described as primary production, are considered as processing, and as products of animal origin are the subject of Regulation (EC) No 853/2004.
- However, with regard to on-farm cheese making, the Guidance document remarks that "*Regulation (EC) No 853/2004 generally excludes retail (i.e. the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer) from its scope. This means that where cheese is manufactured and sold entirely at the farm or at a local market (e.g. weekly market, farmers market etc.) to final consumers, these activities can be carried out in compliance with the appropriate requirements laid down in Regulation (EC) No 852/2004, in particular in its Annex II, while not having to comply with the requirements of Regulation (EC) No 853/2004 apart from the requirements for raw milk.*"

Recital (12) in the preamble to Regulation (EC) No 853/2004 states that *"The requirements of Regulation (EC) No /2004 (6) are generally sufficient to ensure food safety in establishments carrying out retail activities involving the direct sale or supply of food of animal origin to the final consumer."*

The Guidance document on Regulation (EC) No 853/2004 states that there is no need to establish an approved establishment for processing animal products on the farm.¹²²

It is clear from the legal principles, regulations, guidance documents that have been presented so far that small-scale production, i.e. marginal and localised retail is permitted by EU law under simplified hygiene rules. Nevertheless, even in the case of localised, direct sales and small quantities, facilitations should not be exempted from traceability and certain labelling rules in order to protect consumers.

Regulation (EU) No 1169/2011 on the provision of food information to consumers¹²³ states that such information **may not be misleading**. The Regulation provides for information, indication or labelling, mandatory information and certain product-specific requirements, lists allergens. Another related topic is that the names of individual foods can be misleading too. It is not without relevance, whether we call something jam or marmalade.

As regard to food Hygiene rules there is another important document, namely the Codex Alimentarius¹²⁴, a collection of international food standards, guidelines and codes of practice contributing to safety, quality and fairness of international food trade, adopted by the Codex Alimentarius Commission. The Commission, also known as CAC, is the central part of the Joint FAO/WHO Food Standards Programme and was established by FAO and WHO to protect consumer health and promote fair practices in food trade. Consumers shall trust the safety and quality of the food products they buy. The Codex Alimentarius includes provisions in respect of food hygiene, food additives, residues of pesticides and veterinary drugs, contaminants, labelling and presentation, methods of analysis and sampling, import and export inspection and certification.

EU food hygiene regulation thus allows Member States to establish national regulations for small quantity and marginal, localized and restricted production. Within the BOND Project, we got to know national regulations of some of our project partners, but we present the regulations of other Member States we had previously known. Further on this Chapter and some more detailed rules in Annex G¹²⁵ the Czech, Hungarian, Norwegian, Polish, Portuguese, Romanian, Croatian, Slovakian, Valencian regulations on small farmers shall be introduced, as well as, the UK small farmers guide and the French and Croatian meat processing rules.

Herbs constitute the treasure of nations. It is for this reason that flexible regulations relating herbs supporting preservation of tradition is key in this respect. Unfortunately, this area is subject to regulations relating to industrial sized production. The legislative grounds for preserving and maintaining folk traditions is to be searched for among these regulations. To this end, the interpretation below may prove useful, and we also make recommendations seeking flexibility in measures also in relation to this area.

Pursuant to Regulation 1924/2006/EC¹²⁶ on nutrition and health claims made on foods, foods and drinks consumed as traditional foodstuff are subject to the provisions relating to foods even when these foods (e.g. rose-hip tea, elder syrup, rams cream) have beneficial impact on the body. In other words, the regulations on medicines need not be applied.

Regulation 1934/2006/EC¹²⁷ removes claims from its scope that are traditionally used to imply designation of food and drink characteristics with potential impact human health, such as the designation of “promoting digestion” or “cough remedy sugar”.

If a product is to be sold claiming it has medicinal properties (e.g. high blood pressure remedy tea), it must comply with the requirements laid down in Directive No. 2001/83/EC¹²⁸ on the Community code relating to medicinal products for human use and Directive 2004/24/EC¹²⁹ of the European Parliament and the Council amending Directive 2001/83/EC as regards traditional herbal medicinal products.

Please note that Regulation 2004/24/EC does not amend Directive 2001/83/EC in terms of its scope. The scope of Directive 2001/83/EC covers medicinal products made in industrial production only. **According to the position of the European Commission¹³⁰, it is not applicable to craft products made by small scale farmers.**

The issue of **animal by-products** is also worth mentioning in terms of shorn wool. Both in Hungary and in Croatia, one of the traditional crafts is processing of wool in domestic and craft methods. Such methods include making felt and plaiting. At the national BOND workshop in Croatia and at the Hungarian trade event¹³¹, it was found as a barrier that school pupils and families cannot work with wool produced by local farmers in craft sessions on account of industrial regulations imposed by the EU. There is a need to take a step forward in this respect at EU level.

It should be made clear that the provisions relating the costs and burden of obtaining a license as per Article 3 of Regulation **142/2011/EU**¹³² are not applicable to end-point wool. Furthermore, in this respect, it should be allowed that shorn wool and hair produced by registered producers from their livestock after their officially approved (registered) other systematic treatment - including domestic washing or washing / cleaning by a craft community or social enterprise - be deemed as products having reached their end-point, and thus suitable for making products by the community in traditionalist activities.

Pursuant to Article 10 (h) of **Regulation No.1069/2009/EC**, shorn wool is a material in category 3. It means that it is not a hazardous material or waste. Pursuant to Article 5 (2) of the Regulation and thus section VII of Annex XIII, derivative products, including “*wool and hair which has been factory-washed or which has been treated by another method which ensures that no unacceptable risks remain*” may be placed in the market without restrictions.

It is clear that domestic washing is a small-scale method with traditionally proven safety properties. Factory washing is not reasonable, in cases where the farmer intends to deliver shorn wool or hair of animals in controlled livestock over to communities (special interest or craft class). It would involve a disproportionate burden. Unfortunately, the EU is yet not in a position to provide an opinion on such a small-scale issue suitable also for referencing purposes, however there is a marked need for a guideline listing examples for flexibility, thereby assisting local authorities in their work.

Flexibility under EU Regulation 852/2004 provided a great opportunity in Hungary for traditional products to access markets, for rural development, and to earn additional income in underdeveloped regions. In this respect, it is useful to have an overview of derogation decrees passed by some countries, because small scale production in Central-Eastern European countries brings social innovation benefits in addition to economic yields. With key measures of flexibility within EU regulations on hygiene summarised above, now we draw attention to those rules of hygiene collected in the BOND project

- that impose rules on Member State level on small or marginal quantities for product producers, and

- where a joint processing unit facilitates cooperation between the producers.

Flexibility in hygiene regulations from some countries

III.5.1 Czech Republic

The Czech Republic also sees the launch of procedures aiming to allow access for small scale farmers to markets, by flexible regulations on hygiene. Article 27 (a) of the Animal health Act¹³³ and the regulations on hygiene imposed by the Ministry of Agriculture in relation to animal products¹³⁴ achieved this objective by setting flexible set of requirements in relation to farmers' markets and sales from farms. This way, small scale and mid-sized farmers may directly sell to the consumers and local small service providers (local stores acknowledged by law as small and local in nature), in a pre-set quantity.

In the course of the research, BOND partners identified the obligation to obtain a licence for the sale of processed food products a problem and that there are no flexible sanitary requirements for SMEs or those wishing to sell their processed products (jam, cake etc.), and there are too strict geographical limitations in place for such sales.

In the context of flexible terms, they have defined the maximum sales quantities, as follows:

- fresh poultry: 2000 animals / year, or 10 animals per week
- fresh rabbit, max. 10 animals per week
- deer: 30% of the quantity shot by the hunter himself/herself annually may be sold
- fresh milk: may be sold for end-consumers, for the usual daily consumption of the household
- fresh egg; 60 pieces per consumer and max. 60 pieces weekly for a local service provider.
- apiary products; 2 tons per year for end-consumers or a local service provider.

III.5.2 Croatia

In contrast to many Member States, Croatian law applies and uses the term of small capacity slaughterhouses and food processing units. It creates a precedent and a good example for a law allowing small farmers to process and directly sell their products of animal origin. In most European countries, the greatest barrier to processing meat products lies in deficient logistic opportunities to slaughter animals. In other words, as it is costly to construct slaughterhouses, farmers may arrange for the processing of their products once these products are transported many hundred km's, making it costly or impossible for farmers to pursue their operations. Granting licence to mobile or small capacity slaughterhouses enables the creation of a number of small facilities in a geographical area, enabling more farmers to directly access markets. In Annex G.1¹³⁵ some details of Croatian laws relating to small slaughterhouses, small capacity slaughter facilities, small egg packaging centres and mobile slaughterhouses are provided, which may serve as good examples to follow.

III.5.3 France

From a number of aspects, France provides good examples in terms of supporting small farmers to access markets. In this respect, it is worthy to take a look at sanitary requirements, as various forms of flexible terms may be seen, in addition to monitoring, which is considered material in developing consumer trust and food safety alike.

In France, meat processing and sales in farmer shops¹³⁶ are allowed for farmers having no room in their farm suitable for processing meat. It allows circumventing meat processing

facilities and butchers where farmers and industrial meat get mixed up, and on account of resale, direct contact with the farmer is lost. Many times, the processing unit of a farmer's shop are better equipped than small farmers, and direct sales from such facilities ensure that the goods are fresh and the distance between farmers and consumers will be less.

It is beneficial for producers as this way they may address consumer demands faster and easier. Each week, they may prepare the necessary quantities in view of consumer demand and weather, e.g. in summertime, when the weather is good, more meat is made for barbecuing. Butchers can process animals more precisely and without having any leftover at the end, and the quality of the products are easier to control by direct connection between the parties. Joint use of assets and resources results in lower costs - as compared to having to invest to construct a processing unit for their own - however it is not necessarily cheaper than having the processing made under contract in the traditional manner, and in addition to the above, in a joint meat processing unit it is possible to process meat to the liking of the owner, in contrast to processing in industrial processing sites.

The producer is responsible for providing the raw material, to make managerial decisions, and the butcher is responsible for observing food hygiene requirements in the course of processing and for the quality of the end-product. The butcher performs daily operative organisation of processing, as s/he can have an overview of all activities, consumer demands in terms of quantity and quality, in other words, s/he places an order for the half carcasses, and s/he decides what type of meat product is to produce.

As regards financial settlements, two major options are seen to exist:

- a) The costs of the meat processing unit are fully independent from the income of the shop.
- b) More often, the processing unit is part of the shop in terms of legal standing and for accounting purposes. In this case, financing can take one of the three forms:
 - o the shop issues invoices charging toll processing to producers as a service, together with the costs of added ingredients,
 - o producers as members of the shop pay the costs in membership fees,
 - o the shop buys the half carcass from the producer and the costs are included in the price payable by consumers. This latter case is not deemed as direct sales to consumers.

The meat processing plant proposed design is attached in Annex G.2¹³⁷.

Joint food processing unit¹³⁸

In France, cooperation in the form of short food chains has a long-standing tradition. In underdeveloped rural areas, processing by small producers is an option capable of creating added value, where producers can make finished or semi-finished products, or where they are capable of delivering appropriate products to public catering.

Multifunctional agricultural activities require new competencies in terms of technology, organisation, commerce, facility management and enterprise management. At the same time, diversified activities contribute to the development of agriculture becoming business operations providing proper subsistence rather than of social nature even at small producer level. The option of operating as a Mutual Food Producer (in a French abbreviation: ATC) enables diverse production and livelihood for small producers and traditional food production,

and assists in re-localisation of food supply chains), by the availability of local processing options.

The option of ATCs has been created in the project named ATOMIC, primarily coordinated by CUMA. The need for joint processing has arisen in line with the increase in the number and significance of RELs, as more and more small-scale producers have expressed the need to create a joint processing unit compliant with requirements relating to hygiene to reduce costs. ATOMIC project has therefore been created to support producers' innovation efforts on scientific grounds that is regarded as novel in terms of both organisation and production.

According to the project manual, ATCs are defined as *“food production under the joint control of producers, where producers control or perform processing of self-produced raw materials, and thereby they own the finished products until they are sold locally”*.

This definition also lends the name to the initiative: ATC (Atelier de transformation collectif), that is, collective processing unit. ATCs are different from the traditional processing activities performed in cooperatives, individually or under a contract, as this option enables the farmers to own the products in the entire food chain, and to perform processing to their liking. In practice, ATCs are similar to PVCs (pont de vente collective, or joint producers' sales point in English) (see section VI.3.2), where producers perform joint sales, and the products remain in the ownership of the producers until the end of the food chain. ATCs also address the issue raised by several partners in national workshops as to how a small-scale food processing facility - sized between small farmers and industrial proportions - could be created and regulated.

ATC criteria include:

1. ATCs are controlled by the community of producers using the processing facility, which also means that the initial capital is provided by the producers, as individuals, with each producer being an owner and user of the facility, with the right to participate in decision-making. Accordingly, a number of legal forms are available to select from: CUMA - association of producers to own and use machinery (see Annex C¹³⁹), SICA - joint interest association of agricultural producers (société d'intérêt collectif agricole), which is a form of cooperation of producers with characteristics of cooperatives, under simplified conditions, resulting in the creation of small producers associations, and finally, there is the option to establish a limited liability company (SARL).
2. In an ATC, producers process their raw materials into products, using their own recipes and procedures, relying on the work of family members or of employees of their own. Producers may deviate from their recipes at any time, and may amend it to their liking, needs and in addressing feedback from consumers. In other words, facility forms performing procession according to a standard procedure will not be regarded as an ATC:
3. Producers sells the products made in the ATC directly to consumers locally only, and these products may not be sold to a wholesaler. Exceptions include farm catering, where producers provide the farm catering service themselves in their own farm catering facility, and their products are sold, cooked and offered for sale in another legal enterprise form. They are also deemed a REI, as mediators are present in the procedure, in the invoicing system on a legal level, however no real transaction takes place. It all means that producers act as producers, processors and traders of the product, from the moment of production until they reach consumers. **However, if the producers sell their products in traditional channels by involving an**

intermediary to sell in the sales channel, this cooperation may no longer apply flexible terms (derogation). For this reason, ATCs are primarily established to enable farmers to jointly address their processing tasks and to sell locally in a controlled manner, in many cases via a joint production point, or a house.

It is important to note that producers creating an ATC may decide to produce their products to international markets, but in this case, the full facility would forfeit the option of benefiting from derogation.

Regulations relating to hygiene

As the legal form and operation of ATCs is not mature as yet, the study prepared in the pilot project makes recommendations only as regards requirements on hygiene. These requirements and findings have nevertheless been considered by French authorities and they received their approval.

On account of traceability, each ATC (any entity engaged in processing of food) must have been registered with the Departmental Directorate of Social Cohesion and Protection of Populations (Direction départementale de la cohésion sociale et de la protection des populations (DD(CS)PP) at county level. This authority is responsible for checking food hygiene risks pursuant to Regulation no. 852/2004/EU. The requirements are applicable to all members of the community and the users of the assets. Processing of products of plant and animal origin are subject to different rules. In case of animal products, there are three levels in terms of the French food hygiene regulations in general (covering not only ATCs).

- a) in case of direct sales only, the completion of the CERFA 13984 document issued by DD(CS)PP will suffice, however, compliance with the PMS Hygiene Plan is obligatory.
- b) part of the products is sold directly within a distance of 80 km, and another part is sold via intermediaries: This case is also subject to registration with the authority on a compulsory basis, and in addition to these regulations, the quality caps in place under the small scale producers derogation, depending on whether 30% or a higher proportion of the product is sold via intermediaries.

1. Table: Quantity limit according to derogation

Product category	Weekly quantity cap for sales	
	A - The producer sells less than 30% of the products made by such producer via intermediaries	B - The producer sells his/her products without any constraints via intermediaries
Fresh meat	800 kg	250 kg
Processed meat products (ready meals, smoked and dried meat products)	250 kg	100 kg
Fresh fish products (frozen, cooled) or processed (slated, smoked or pre-cooked)	250 kg	100 kg
Snails	100 kg	30 kg
Convenience foods from the above products (e.g. to public catering, catering)	400 portions	150 portions

Source: Mundler, Valorge (2015): Ateliers de transformation collectifs. Educagri. Dijon, Terrieux, Valorge, Mundler (2015): Les ATC en France: définition et regard d'ensemble.
<https://www.agriculturepaysanne.org/files/etude-atelier-transformation-collectif-fl.pdf>

- c) If the producer sells his/her product other than locally and indirectly, via an intermediary as described above, the provisions relating to industrial hygiene requirements as per Regulation No. 853/2004/EU must be observed. (The hygiene requirements applicable to the latter case are not covered in this study).

In the project, the Food Authority and the Atomic researchers have laid down the following key guidelines in relation to the hygienic regulations on ATCs (with consultations still underway in 2015 when the book was being written).

In terms of manner of organisation and the responsibility of producers, the following options are available.

- an ATC may have an individual licence (with derogation for small scale producers), in other words, any producer processing their own products must have an individual licence for derogation (allowing processing under a small-scale producer licence under flexible rules on hygiene);
- an ATC may also have a joint derogation issued to the name of the ATC as a community. In this case, the producers benefit from the derogation terms granted to small scale producers / small scale facility, may directly sell their products locally, and receive exemption from obtaining further licences.

In the second case, in case of possessing a joint licence, a person in charge needs to be appointed, who will be responsible for compliance with rules relating to hygiene, in his/her capacity as a member or employee of the organisation. This person will be responsible for compliance of the regulations by all members of the organisation, and proper hygienic conditions would prevail even when this person is away from the premises. If this role is taken by a producer, there will be a need for group cohesion. If taken by an employee with appropriate qualifications, on his/her departure from the organisation, a deputy must forthwith be arranged for, otherwise the facility forfeits its licence.

In cases where all producers have their individual licences, and they wish to perform processing under such licence, efforts must be made to prevent a mix-up among the various level licences. It means that producers having licence for direct sales only and those licensed to sell their products also via intermediaries may never meet within the facility.

In each case, ATCs must prepare a sanitary master plan (le plan de maîtrise sanitaire PMS), to prevent risks from materialising in each processing method, and an (non-compulsory and highly recommended) internal regulation that defined the rights and obligations of the members. In addition to the foregoing, producers must also be aware of the rules relating to the transportation of raw materials. Each and every processor must have a PMS in place, whether they are engaged in small scale processing of vegetables or fruits, or in sales of meat or dairy products, whether directly or via an intermediary, subject to specific caps on quantity.

PMSs cover three levels that shall be followed by the producers:

- first and foremost, good sanitary practice: it prescribes for producers engaged in processing to have a HACCP qualification, to perform health screening, water quality checks, description of cleaning activities, temperature control, and pest control measures;
- level two involved the introduction of HACCP, which also covers labelling and laboratory test rules;
- level three covers monitoring and noncompliance control, consisting of appropriate registration of suppliers, registration of used materials, registration of processed products, and monitoring of clients and resale purchasers.

Risks associated with changes in the course of operations must be assessed and reported to the authorities. Compilation of a PMS requires a sound expertise, usually prepared with the involvement of an external expert, which also sets forth sanitary requirements to be fulfilled by members.

III.5.4 Hungary

In Hungary, there are flexible sanitary rules in relation to small scale producers and local farmers' markets, which sets forth a definition for local sales and the related area limitations and exact figures for small quantity products in each product category. The good sanitary practice for small scale producers has also been adopted.¹⁴⁰ Flexibility under EU Regulation 852/2004 provided a great opportunity in Hungary for traditional products to access markets, for rural development, and to earn additional income in underdeveloped regions.

The small producers regulation (52/2010 FVM¹⁴¹) allows small-scale farmers, including household farmers, to sell their own cultivated, produced and processed product with a flexible food hygiene rules based on Regulation (EC) No 852/2004.

Small producer must register at the food chain safety and animal health department of the district offices.

A private person with registered tax status as household farmer (primary producer), or private entrepreneur.

What products may be sold or what related activities may be conducted by the small producer?

- primary products grown, bred or collected;
- processed products;
- farmhouse catering service (Domestic slaughter of pets is possible if cooked and baked food is prepared and consumed locally as a ready meal.)

Small quantity selling rule: all these products or services may not exceed a certain quantity:

- the meat of grown or upgrowing swine, sheep, goat: 6 pieces/week, 72 pieces/annum;
- the meat of piglet under 50 kg, or under 15 kg lamb, goatling: 10 pieces/week, 120 piece/annum;
- the meat of grown or upgrowing cattle: 2 pieces/week, 24 pieces/annum;
- the meat of calf under 100 kg: 2 pieces/week, 24 pieces/annum;
- the meat of farm chicken: 200 pieces/week. Slaughtering and selling the meat of waterfowl or turkey 100 pieces/week;
- the meat of rabbit: 50 pieces/week;
- producing and selling meat foodstuff: 70 kg/week, 2600 kg/annum;
- fish: 6000 kg/annum;
- milk: 200 litre/day, plus dairy product 40 kg/day;
- egg: 500 pieces/week, 20000 pieces/annum;
- fruit distillate (with tax seal).

Territorial sale limitation:

Selling of primary product of plant origin (apple, potato) and honey;

- nationwide directly to consumer;
- in the county, or within 40 air km from the place of the production within the territory of Hungary), or in Budapest, to retail or catering (incl. public catering);

Selling of primary product of animal origin (milk, egg, raw meat, etc.) and any other processed foodstuff (cheese, jam, sausage, etc.) in the county, or within 40 air km from the place of the production within the territory of Hungary), or in Budapest, to consumers, retail or catering (incl. public catering).

In the summer of 2017 Good Hygiene Practice (GHP) was approved by the Hungarian Ministry of Agriculture as a result of a good working collaboration between the Ministry, National Food Chain Safety Office and Kislépték, National Association of Interest Representations for Small-scale producers and service providers (KLT)¹⁴².

In addition to the decree on small scale producers, the Hungarian government has adopted flexible sanitary rules by passing the decree on local farmers market¹⁴³. It provided the legislative grounds for an easier creation of local markets in the countryside, as these are not markets and market halls equipped with industrial infrastructure. These local markets are available only for small scale producers to sell their products, and not traders. A disadvantage lies in prohibiting also small family farms, cooperatives and craftsmen to sell their products in such markets. It represents another form of access to markets, which can add supplementary income to those living in rural areas. In Hungary, as in many Central-Eastern European Member States, after the 90s', it became more difficult for small scale producers to access markets. The expansion of wholesale markets and wholesale traders brought about a sharp downward pressure in prices, and for this reason, the creation of each direct sales market has a material potential for those involved.

Small scale retail units (64/2007¹⁴⁴) engaged in sales to end-consumers and in processing (e.g. a butcher's store) when selling directly to end-consumers products of animal origin, are deemed to be performing marginal and local activities in case of meat and meat products, if:

- a) * sales take place in the county or commercial units in operation of neighbouring counties;

- b) * the quantity sold to resellers does not exceed 25% of the raw materials of animal origin received in the particular calendar week on a weekly basis, or in case of meat, a maximum of 5 tons, and over and above this quantity, in case of meat products and cut cheese and other portioned dairy product, a quantity of 500 kg, in case of minced meat and prepared meat, a maximum of 500 kg, and in case of prepared fishery products, maximum 1 ton on a weekly basis.

III.5.5 Norway¹⁴⁵

The regulatory framework for Norwegian food producers is the sanitary regulations of the EU, despite the fact that Norway is not a member of the EU, however a member of EEA. On account of the peculiar geographical endowments of the country, the flexibility factor interestingly includes in its definition - in addition to naming marginal quantities - the place of sales, namely as a “**natural sales area**”. In the context of strengthening the diversification of family farms in terms of their operations, it is clearly a flexible provision that offering of means for consumption at ad-hoc events does not fall under the scope of the food hygiene Regulations No. 852/2004/EC of the European Union. In Norway, in such community and ad-hoc events ad-hoc sales by private persons are also permitted.

In Norway, producers are divided into two groups:

- Producers wishing to sell all across the European Union must have a licence to do so from the national food authority. They must meet the provisions of the relevant food sanitary regulations, and the separate rules relating to food products of animal origin.
- **The second group includes small scale producers** engaged in making products in limited quantities, and in sales of their products in a geographically limited area, e.g. in a farm. (The regulation on food hygiene has it in this form: “a sales area natural for the producer”.) This group must register only, with no need to seek a licence for sales. However, this group must also comply with the provisions of the general food hygiene regulation.

Legal regulations in Norway clearly makes a distinction between obligations on the part of private persons sell their products on an ad-hoc basis and on the part of business enterprises engaged in sales.

If private persons sell their products on an ad-hoc basis, they do not need to register with the Norwegian food safety authority. However, they must fulfil the requirements of the law on the safety of foods and food supply including basic rules of hygiene. A case described in a guideline is a good example for the above¹⁴⁶. *“If you, your sports team, school class, orchestra, association or similar entity sells fruit or vegetable, cakes, sausages, ice cream or hamburger ready for barbecuing at a national holiday or other short-term local event, you do not need to report to the Food Safety Authority. You are nevertheless subject to the provisions of the Nutrition Act, and you must ensure that the requirements of cleanliness and hygiene are fulfilled in both the organisation and the implementation stage.*

Business enterprises engaged in the sales of products must register for them to be allowed selling at events. If they wish to sell food products at festivals and similar events, they must register as a **food industry enterprise with a mobile sales vehicle**, which constitutes a special form of operation.

The rules of marginal, local and limited small-scale retail¹⁴⁷ are applicable when the food products of animal origin from other small-scale retailers are delivered only to other small-scale retailers¹⁴⁸. Under these provisions (Article 17), marginal activities are defined as small

scale retailers delivering food products of animal origin not exceeding 600 kg on a weekly basis to other small-scale retailers. It is to be calculated as weekly average for up to six months.

In case of marginal products of animal origin the following issues must be taken into consideration: delivery of small quantities of slaughtered poultry and wild rabbit by the manufacturer (meat of 10,000 poultry and up to 10,000 wild rabbit in the farm) directly to the end-consumer or to local small traders (in the region within the competence of the food safety authority where the unit is located and in the neighbouring regions) engaged in the direct delivery of such fresh meat to the end-consumer.

Local activities mean a small-scale trader delivering food of animal origin to another small-scale trader within the same county or within 100 km at the most. Small scale traders capable of proving that their natural sales area exceeds these limitations, may deliver to clients in a larger area.

III.5.6 Poland¹⁴⁹

Within the scope of operations of registered agricultural retail sales (RHD= rolniczy handel detaliczny=agricultural retail), processing of food is allowed in case of sales to end-consumers, and as from 1 January 2019, in case of sale of self-produced products, to small scale traders engaged in sales to end-consumers as well as to restaurants, with a limited territorial scope¹⁵⁰.

It is however problematic for Polish small-scale farmers that the producer may not involve any third-party person for the production and sales of products, except in exhibitions, fairs, and festivals promoting food products.

Regulation no. 2159/2016 (December)¹⁵¹ defines the maximum food quantity that may be sold annually, as a part of a rule relating to sales of agricultural products by small scale producers. The detailed description is set forth in Annex G.3¹⁵².

Regulation no. 1703/2015¹⁵³ on veterinary requirements applicable to the production of animal products made from self-produced raw materials for direct sales to consumers also defines quantity caps. Products that may be directly sold include for example cut bodies or intestines from 2,500 turkeys or 10,000 other poultry or 5,000 lagomorphs slaughtered in the farms from controlled livestock, as well as untreated milk and eggs.

Direct sales to consumers may take place:

- at the place of production or in the farm;
- at markets; or
- in mobile or temporary facilities;
- via small scale trading facilities engaged in direct delivery to end-consumers.

In case of animal products, the direct sales are limited to the territory of the particular voivodeship (provinces) where these products are made, or in the neighbouring voivodeships (provinces), or at exhibitions, festivals and fairs organised for the awareness-raising of these products in provinces outside the above.

The regulation on farmers' market has its critical point where processed products may be sold at very limited quantities and within a very limited area. Where the sales volume is on the increase, an enterprise must be established, and a small farm may not afford the costs of its operation, and there is also an obligation at this point to pay social security contribution.

III.5.7 Portugal

In Portugal, Regulation No. 699/2008¹⁵⁴ provides for flexible rules relating to hygiene as regards certain food products. Under this decree, direct sales mean sales to end-consumers or local small scale engaged in sales to end-consumers, and sales may take place within the area of the municipality as per the place of primary production and in the neighbouring counties. These provisions are not applicable to the distribution of regional products for promotional purposes at temporary exhibitions organised specifically for this purpose.

The decree - as in other countries - also defines the term of small quantity, which is a very low amount to enable livelihood for those living in the countryside.

These quantities from primary production are:

- 350 eggs weekly
- 500 kg honey annually
- 150 kg of fishery product weekly
- The maximum quantity of fresh cow milk from controlled livestock is 50 litres daily, if sold by the primary producer directly to the end-consumer.
- Up to 200 split poultry, rabbit and grown small game body weekly slaughtered by the primary producer in the farm (no processing beyond slaughtering, removal of the intestines and removal of the skin is allowed).

III.5.8 Romania

Small family farms and farming traditions are markedly characteristic of the Romanian areas within the Carpathian basin. It is hard to apply to them EU regulations relating to the production and sales of foods, and to consumer protection, monitoring and hygiene. Laws and decrees are very often amended (e.g. decrees of urgency and laws are repealed), and they are not uniformly implemented on local levels, rendering local requirements markedly varied. Often times, the mostly aged farmers are not familiar with applicable rules. In Romania, there exists a rule describing the minimal operational conditions for small scale slaughterhouses, and quantity caps have also been set.

Direct sales of basic products of small-scale producers is possible by using a simple producer registration and sales recording booklet issued by the municipality.

Pursuant to Act no. 145/2014¹⁵⁵, natural persons engaged in agricultural production activities

- Must have a “production certificate” (“*atestat de producător*”). Production certificates issued by the mayor’s office provides the legal grounds for **agricultural production**, and for the **sale of products made in the farmer’s own production activities**. May not sell the products made by other farmers. These producers may sell basic and processed products from the farm and the house subject to registration and without issuing an accounting voucher and may also sell their basic products in markets and at events.
- By maintaining a commercial registry booklet (“*carnet de comercializare*”), for the recording of sales by the producer, and therefore producers do not need to have a cash register¹⁵⁶. In cases where producers wish to sell processed products in markets in addition to their house, they must meet very strict requirements imposed by the competent Food Safety Authority (A.N.S.V.S.A¹⁵⁷) and laid down in relevant legislation, which is very hard to attain on the part of small scale producers. For sales of processed

products in markets, an enterprise must be established, and an online cash register must be used.

In case of direct sales of basic products of animal origin, producers may directly sell their small quantity basic products of animal origin and primary agricultural products to end-consumers, once they are registered to do so and after receiving a veterinary certificate, at fairs, exhibitions, religious events or at any other public event subject to regular control by local / county authorities, all across the country.

Small entrepreneurs engaged in selling primary products of animal origin from animals held in their household must renew the veterinary certificate every quarter year.

The following products fall within the scope of the veterinary registration process:

- a) fresh milk - as per the milk quota;
- b) fresh fish - up to 300 kg / delivery in case of fished fish and 50 kg / delivery in case of fish caught in fresh waters;
- c) one big game and 10 small games per hunting area;
- d) poultry or rabbits - 10,000 animals per year;
- e) live snail and mollusc - up to 50 kg per week;
- f) egg - from up to 50 laying hens

Small capacity slaughterhouse (decree 35/2011)¹⁵⁸ with suitable areas and facilities for the receipt, accommodation and slaughtering of animals in small numbers.

Animals in small numbers - maximum number:

- pigs, sheep or goats - 100 animals / month;
- neat - 20 animals / month;
- A combination of the above, not exceeding 2.5 UVM / day,

III.5.9 Slovakia

Flexible regulations covering small quantity producers and marginal producers in terms of hygiene was created in Slovakia as early as in 2011. It has become possible for producers to make and sell processed products. We emphasize that the range of persons not deemed as entrepreneurs is objectively defined, and so sales by them are not deemed as commercial activity when their revenue is less than EUR 500 and when they engage in the sales of their plant basic products in a rented room or marketplace for a maximum of 30 days annually. Article 3 of government decree number 360/2011 defines local retail stores in a reasonable manner, by timely terms (in accordance with EU regulations), in other words, locality is defined as retail stores within 2 hours travel, rather than in km terms.

Government decree No. 360/2011¹⁵⁹ was supplemented and amended by government decree 100/2016 360/2011¹⁶⁰, in significantly increasing the caps on small quantities. The decree allows processing small amount of self-produced products, other than animal products, in an own facility. The decree covers the direct sales of small quantities of basic products of plant and animal origin and the related sanitary requirements, and the sales of milk and dairy products to end-consumers and other retail facilities.

In selling fresh and heat-treated milk and dairy products in marginal quantities, the retail store may deliver milk or dairy products up to 500 litres of cow milk, 250 litres of sheep milk or 100 litres of goat milk to retail stores selling to end-consumers on a daily basis, provided these quantities do not exceed 35% of all processed milk and 35% of dairy products weekly (Articles 9 and 10).

Raw eggs in small quantity may be sold by the producer directly to the end-consumer at the place of producing such egg, or at a local market up to 60 pieces per week, or to local retail stores up to 350 pieces each week (Article 5).

Government decree 359/2011¹⁶¹ regulates the following activities:

- Sale of certain food products of animal origin from one retail facility to another one, in case of marginal quantities sold locally (within an area of 2 hours travel) and in limited activities.
- Direct sales of poultry meat and rabbit in small quantities and delivery of the same by primary producers, and direct sale of small quantity of wild animal to end-consumers or local retail shops
- Marking of meat of animals slaughtered urgently (for a special reason) at slaughterhouses and accompanying documentation of animals slaughtered outside of slaughterhouses.

Pursuant to the decree, exemptions may be granted as regards the requirements relating the structure of small food production facilities in case of:

- a) a slaughterhouse, where
 - no more than 30 animals¹⁶² are slaughtered weekly,
 - sends a prior notice to the competent authority, reporting on the slaughtering of the animals, to allow ante mortem checks to be performed in the farm or in the slaughterhouse;
- b) a slaughter-facility, where no more than 5 tons of boneless meat is produced weekly.

According to Article 7, small quantity poultry or domestic rabbit facilities mean those keeping no more than 10,000 poultry and 2,500 rabbits annually.

The detailed of small quantities are in Annex G.4¹⁶³.

III.5.10 Spain

In Spain, in Valencia province, as a result of close cooperation¹⁶⁴ between civil organisations (COAG) and authorities, decree 201/2017 allowing flexible regulations relating to small scale producers was passed in 2017¹⁶⁵. The reasoning part of the decree provides a good example in itself, as shown below:

The preamble of the decree declares that sales of products made by producers or small-scale food processing entities through direct or short sales channels is a form of diversifying revenues for farms engaged in basic agricultural activities. It also helps the creation of micro enterprises associated with rural areas and provides local products for consumers.

The flexible regulation promotes the creation and continuance of viable and sustainable farms. Economic development of rural areas, and systems linked to local resources provides subsistence in family farming for a number of persons. It is also associated with the preservation of traditional food production and culture.

Consumers are getting more and more interested in the origin of the food they consume, and sustainability of production which may promote consumption of seasonal local food. The objective of this decree is to guarantee food safety of agricultural products and processed

foods sold directly or through a short commercial channel to consumers. The purpose of setting geographical limitations was to

- Reduce the length of transport or agricultural and food products and the sales channels, thereby reducing relevant costs, with a view to promoting production and consumption.
- Another objective was to increase the added value to agricultural products, and to diversify and increase the income of those making these products, thereby supporting subsistence.
- In so doing, they contribute to the strengthening and restoration of rural tourism.
- There is an increased need on the part of society to ensure transparency of relations between producers and consumers, and to secure their products locally, from environmentally friendly practice of production.

This decree is applicable to:

- a) Primary producers engaged in directly delivering their small quantity products to the end-consumers or via short sales channels.
- b) Small scale agricultural product processing entities, engaged in processing or packaging small amount of food, primarily in rooms in private houses or in workplaces, and in delivering their products to the end-consumers or via short sales channels.

The decree defines a number of terms, including the term of small-scale agricultural food producers. Such persons are defined as a registered person engaged in the processing and handling of a limited quantity of food product in his/her own farm, and in selling these products directly to end-consumers, and via a short supply chain within the area of the Valencia region.

However, the decree disallows the sale of products in certain product categories, including fresh milk, live bivalve molluscs, and meat of domestic animals slaughtered in slaughterhouses (except as described in the decree), fishery products, seeds and germ.

Processing is allowed in small quantities in case of the following products: processed plant products, apple wine, wine, beer, distillate, honey, apiary products, olive oil, bread, baked goods, confectionery, pasta.

There are no limitations on quantities in relation to primary basic plant products.

Animal products are subject to the following limitations:

- 350 eggs weekly,
- 7,000 carcasses of split poultry or lagomorphs annually.

Small scale agricultural and food processing entities subject to the scope of the decree wishing to process or package and distribute limited quantity of food are subject to the following requirements:

- It must register with the sanitary registry for small sized food industry facilities of the Valencia region and it must obtain a preliminary licence for the facility.
- It must comply with requirements relating to hygiene and must apply a system based on risk analysis and critical control points, also observing flexibility criteria and guidelines relating to various products or product categories. It must observe the limitations on production and annual sales.
- Raw materials used for the production of various products must be sourced locally, except where any ingredient necessary for the production of the product is not available within the Valencia region.

III.5.11 United Kingdom

Food Standard Agency (FSA) is responsible for food safety and food hygiene in England, Wales and Northern Ireland issued a guidance in 2016¹⁶⁶ for the use of local food authorities in relation to the approval of food business establishments that handle products of animal origin. It explains, among other issues, the exemptions of article 1(3) (c), (d) and (e) of Regulation 853/2004, namely Direct supply of small quantities of primary product.

Small quantities of products of animal origin

- milk: Up to 24 pints of raw drinking milk [1] per day (approximately 14 litres)
- eggs: Less than 360 eggs (i.e. less than one full case) per week. Note: This exemption only applies to the producer supplying directly to the final consumer from the farm and farmers' markets and door-to-door.
- fishery products: Up to 25 tonnes in a calendar year
- Live Bivalve Molluscs: Up to 25 tonnes in a calendar year, but subject to maximum limits for individual species

In November 2018 a special operational policy¹⁶⁷ on meat was issued in the implementation of the EU Food Hygienic Package. Its Annex B. interprets the terms marginal, localised and restricted set out in Recital 13 of Regulation 853/2004 as follows:

- Marginal: supply of food of animal origin:
 - (i) up to a quarter of the business in terms of food; or
 - (ii) in relation to: fresh or processed meat, (but not wild game meat) up to 2 tonnes a week, subject to the establishment having a genuine retail outlet supplying the final consumer with part of its production of meat; and
- Localised: supply of food of animal origin within the supplying establishment's own county plus the greater of either the neighbouring county or counties or 50 km/30 miles from the boundary of the supplying establishment's county; and
- Restricted: supply of food of animal origin is limited to certain types of products or establishments. In the meat sector, the restrictions are in relation to the amounts of meat supplied and the requirement for a 'genuine' retail outlet (see 'marginal' above).

Supply to a final consumer can include mail order and internet sales. Retail establishments attached to approved establishments under veterinary control do not require approval.

IV. Environmental Sustainability

Protection of nature and the environment, preserving biodiversity and land varieties, seed independence, organic farming, agroecology, participatory quality schemes, regenerative farming, renewable energy, circular economy. These objectives, directions and principles gain more and more important role in the period of climatic change. In these topics, the best known good legal practice is the EU regulation on the certification of organic farming.

Organic farming is covered by separate legislation and a separate EU subsidy scheme. Organic products may bear the ORGANIC/ECO mark in accordance with EU law¹⁶⁸. As this certified trademark is based on objective criteria in accordance with legislation, it may also be a criteria or subject of public procurement tenders. Organic farming covers rules relating to animal welfare, plant production, plant protection, soil preparation (e.g. prohibition of using fertilisers). During the processing activity, the use of certain additives is also prohibited. Together these factors result in environmentally more sustainable farming and healthier food.

IV.1 Preservation of living habitats, Netherlands

In the Netherlands¹⁶⁹, aquatic habitats are preserved by using the method of cooperation as prescribed in the CAP subsidy scheme, in the framework of measures targeted at the protection of the environment. This method ensures the farmers to treat a particular area suitable for an aquatic habitat accordingly, in a uniform manner, because they can receive the subsidy if acting in accordance with the applicable regulations. At the same time, the essence of this form of cooperation is that farmers claiming such aid in an organised form, rather than individually. The organisation keeps contact with decision-makers and farmers, assists the farmers in administration, performs controls and provides counselling.

The majority of CAP subsidy in the Netherlands consists of payments to farmers within Pillar I of the Single Payment Scheme. It constitutes the majority of the CAP subsidies provided to farmers. The sum paid to the beneficiaries of agricultural and environmental protection measures belonging to the Pillar II, constitutes only a part of aids from the EU budget.

Since 2014, the rural development rules of the EU (Article 28 of 1305/2013/EU) allow group application to agri-environmental and climate measures. The new cooperation measure links and extends the former forms of cooperation in the rural development decree (Article 35). In addition, environmental measures of Pillar1 allow the cooperative implementation of environmental measures (in a cooperative).

In this respect, the government acts as a mediator, and enters into a contract with organisations (associations). Contracts with individual farmers are made by the organisations, which is the so called “front door – back door” principle (which constitutes as the best practice, a loophole in the procedure). The contracts cover activities to be performed in various areas and the related payments, for the implementation of the habitat in the desired landscape.

The government benefits from reduced costs of implementation, including control, and the number of non-completed contracts. The system is also beneficial for land users, as the cooperative (organisation) conducts the administrative procedures instead of them, letting them more time for farming, and they receive subsidy and counselling via the organisation, about the opportunities to achieve agricultural-environmental goals, and it ensures a closer cooperation among them regionally.

The collectives operate on cooperative grounds, and they represent the farmers and other land users, and those who voluntarily joined to protect the environment in relation to agriculture

and landscape management, e.g. the Water Land and Dike Association (in the Netherlands, there exist 40 areas and collectives). The association owns no land but performs agricultural activities itself. Their members are farmers and other land managers / users with their own lands. All farmers in a particular area may become member of the association (e.g. active farmers, who are beneficiaries of agrarian-environmental measures and aids).

The Netherlands chose this form of solution because the reduction in the biodiversity of rural areas may be stopped by the joint effort of the farms, allowing uniform treatment of areas suitable for creating aquatic habitats. At the same time, this system allows flexible payment of the subsidies, as administration is managed by the collectives, enabling local payments to farmers.

IV.2 Public catering

Environmentally sustainable farming is supported by an increasing number of consumers by way of their purchases. Consumers' expectation is particularly significant in relation to institutional catering of children. The need for a healthy nutrition is obvious. It covers expectations relating to quality in addition to quantity. Quality expectations means not only varied foods and proper nutrition rates, but also animal welfare, fresh products, and use of organic / ecological raw materials rather than chemical treatments in production. The examples shown here may well belong to the topic of access to markets, the good legal practices are, however, presented here among good examples for the sustainability of the environment. Today, the representative of towns and villages with local food strategy are now part of a network, with public catering and relevant supplies from local and organic raw materials being an integral part of such networks. In Milan, Bristol and many other places, Local Food Strategy¹⁷⁰ has been elaborated.

In public procurement tenders preference may be given to environmental protection and social considerations also in the foods markets segment. To this end, a number of guidelines are available, including among others:

- Buying Green! Handbook for green public procurement, European Commission, 2016¹⁷¹
- In 2019, the European Commission published new, voluntary green public procurement criteria for food, catering services and vending machines¹⁷². The impact on the environment may be significantly reduced this way. Some of the key GPP criteria include:
 - Increasing the proportion of organic products
 - Avoiding consumption of endangered fish and sea products;
 - Promoting an increased offering of plant foods;
 - Avoiding wasting food products and improving waste management;
 - Avoiding using single-use items and articles;
 - Reducing consumption of energy in kitchens and in vending machines;
 - Reducing consumption of water in kitchens.
- A guideline in taking account of social considerations in public procurements, European Commission, 2010¹⁷³

Directives 2014/23/EU¹⁷⁴ and 2014/24/EU¹⁷⁵ confirm that in public procurements in relation to public catering, the condition for the fulfilment of concession terms may include for example minimise of wastes and ensuring effective use of resources. Pursuant to the public procurement directives, the preliminary award criteria may also include ones that are not clearly financial in their nature. Award criteria must be allowed to include environmental

protection, social or innovation-related considerations¹⁷⁶. Contracting authorities must list award criteria in the order of their preference.

In Hungary, there is a decree on public catering ensuring healthy food supply¹⁷⁷, however, it contains no provisions on environmental protection and social factors. It does not cover vegetarian and other reform dietary needs (it however does cover provisions on diet catering). Decree No. 52/2010 FVM¹⁷⁸ on small farming allows farmers to provide supplies for the purposes of public catering, and the Public Procurement Act allows purchase of local fresh raw materials up to the EU threshold, without putting out a tender for public catering. Local environmental protection and social considerations are, however, not taken into account in securing supplies, key considerations being the price and low risk commercial supplies.

In **Valencia (Spain)**, in addition to provisions relating to healthy intake of nutrients, environmental and social considerations are also included in the decree on public catering.

Decree 84/2018¹⁷⁹ on institutional catering cites the EU directives (2014/23/ and 2014/24 EU) and confirms that concession compliance terms relating to the protection of the environment may also include the objective of minimise of wastes and striving for efficiency in utilisation of resources. The decree regulates fat, sugar and salt content, and it promotes the purchase of fresh fruits, vegetables, local food products, and organic products, and healthy and sustainable food products.

As a minimal requirement, winning tenderer service providers must

- a) deliver **fresh seasonal** fruits and vegetables at least 40% of the supplies it makes.
- b) organic products must take at least 3% of the full delivery.
- c) a menu adjusted to the needs of dietetic patients must be elaborated.

The Decree provides that a healthy menu shall be prepared in line with Mediterranean diet.

In Valencia, a good example seen in the BOND project includes the CUINATUR¹⁸⁰ solidary public catering system.

V. Other good legal practices

This chapter describes topics received directly or indirectly from BOND consortium members they regard material, interesting or special. The issue of social economy including social farms is on the agenda in Hungary, the subject matter dealt with by the Hungarian national workshop. Another issue covered here includes the rule on inheritance of arable land in Norway, namely udal law, which is an ancient tradition. The regulation relating secondment aid in Norway aiming to improve the quality of life of farmers is described here for the same reason. In Romania, the commons are also based on traditions, which must be protected and continued, as it very important for the preservation of rural communities. The Huerta community in Valencia likewise has a tradition that goes back several hundreds of years, serving as a special example for sharing water resources.

V.1 Social economy and social farms for public benefit

In 2017, the European Economic and Social Committee of the European Union released its third report on social economy prepared by CIRIEC¹⁸¹. According to the report, and by comparing communications released by the EU on selected local food systems and social economy, we have found that barriers faced by social economy are in many respects similar to barriers faced by small scale farms and local food systems:

- different interpretation of terms;
- lack of transparency;
- difficult access to EU funds, they are not creditworthy;
- diverse regulations hard to interpret/applicable for them;
- lack of adequate knowledge, information and capacity;
- cannot cope bureaucratic barriers;
- it is difficult to have access to land and land use;
- lower economic efficiency;
- The target group consists largely of aged, injured, vulnerable with no professional (broad and professional) competencies and expertise¹⁸²

European Union definition on social economy (CIRIEC 2017)

- private (not organised by the state);
- formally organised (registered) enterprise;
- autonomy of decision;
- freedom of membership;
- created to meet their members' needs through the market;
- decision making is through participatory process, one member one vote
- and distribution of profits or surplus not directly linked to the contribution of the member.

Social farms likewise provide social services as supplementary activity, addressing the needs of society. The care farm movement has strengthened already in the Netherlands, Italy, France, Norway, Belgium (Flandria), Austria, Germany and United Kingdom¹⁸³. For this reason, care farms and social enterprises play a significant role in organising rural community life and to promote diversification of activities of farmers.

After the adoption of the Social Cooperatives Act in Italy in 1991, to date, regulations are already in place in relation to social economy in 19 countries in Europe. In certain countries, a separate and independent legal form has been created (France, Italy¹⁸⁴, Poland, Hungary, Portugal, Spain, etc.), elsewhere there is a framework relating to social enterprises and on

fulfilment of the relevant conditions, the particular entity is deemed as a social enterprise (Finland, Italy¹⁸⁵, Romania, Slovakia and Slovenia).

Charter of Principles of the Social Economy of Social Economy Europe

1. The primacy of the individual and the social objective over capital
2. Voluntary and open membership
3. Democratic control by the membership (does not concern foundations as they have no members)
4. The combination of the interests of members/users and/or the general interest
5. The defence and application of the principle of solidarity and responsibility
6. Autonomous management and independence from public authorities
7. Most of the surpluses are used in pursuit of sustainable development objectives, services of interest to members or the general interest.

From among regulations relating to social economy in some countries, we present some rules worthy of notice.

There is an emerging new set of rules relating to social economy, which covers social economy in a broader sense, as part of solidarity and public benefit economy. A relevant example includes the regulation in place in Spain, Valencia¹⁸⁶ province. This set of regulations in **Valencia** was created in 2017, which defines public benefit economy: “A model for the elaboration of a stable social-economy system, seeking to develop an ethical and sustainable market economy, under the same

fundamental and constitutional values universally acknowledged: dignity, solidarity, ecological sustainability, social justice, transparency and democracy”: In this model, economic growth is sustainable, harmonising economic, social and environmental development in a competitive economy, promoting quality employment, equal opportunities and social cohesion, and guarantees respect for the environment, and reasonable utilisation of natural resources in addressing the needs of the current generation, without endangering the potential to fulfil the needs of future generations. Social enterprises must pass officially accredited checks and assessment, aiming to check data relating to social responsibility and sustainability as set forth in the sustainability as set forth in the sustainability report provided by the business.

Article 128 of the Spanish Constitution provides for public benefit economy, as follows: “*The entire wealth of the country in its different forms (...) shall be subordinated to the general interest*”. The Spanish Social Economy Act¹⁸⁷ provides derogations for self-employed persons and social enterprises to promote self-employment, with a view to creating quality and stable jobs, the subsidy (allowance) assists those in difficulties on account of their particular circumstances to find employment. It also assists those exposed to the risk of social segregation.

Traditional social enterprise forms are created under two regulatory models: The first acknowledges activities aiming at work integration only as social enterprise operations, while the other acknowledges any activity promoting public interest. Slovakia has a regulatory framework allowing broader range of activities¹⁸⁸, where a social enterprise may choose to pursue activities like the utilisation of renewable energy and activities promoting development of green economy. In Romania, social enterprise activities may cover traditionalist activities.

In **Romania**, it is worth noting the provisions of Act no. 2019/2015¹⁸⁹ on social economy acknowledging enterprises as being a social enterprise provided it adheres to the principle of fair wages, that is, the 1:8 proportion in wages. It means that managers’ salaries may not exceed 8 times employees’ salary.

In **Slovakia**, the Act on social economy was adopted in 2018¹⁹⁰. Article 5 provides that social enterprises are those making measurable positive social impacts. According to this provision, positive social impact includes operation on a not-for-profit basis. It is also noteworthy that the

Commercial Act¹⁹¹ has been amended in its definition of enterprises (Article 2), in addition to activities for profit, social enterprise activities were included, as an enterprise form with a measurable positive social impact.

In Slovakia, social enterprises registered after 1 January 2019 may sell their products at a preferential VAT rate of 10%¹⁹².

There exists no separate Social Economy Act in **Croatia**, however, under Act no. 34/2011¹⁹³, cooperatives are allowed to operate as non-profit organisations, and have their registration accordingly. Social cooperatives are specifically named in Article 66 of Cooperatives Act 2011, based on their special operation, however, they have no separate legal status, and is no requirement to be registered separately. Social cooperatives (many of them are social enterprises engaged in promoting work integration) may also be registered as non-profit organisations. As such, in their capacity as non-profit organisations, they are entitled to receive supports due to non-profit organisations (e.g. from the national lottery fund) Non-profit organisations are generally exempt from income tax.

There is no special Act regulating social economy in **Hungary** either, however, similarly to Croatia, operation as cooperatives¹⁹⁴ has a special for-profit form in social cooperatives. The justification part of the Cooperatives Act states that cooperatives are part of social market economy, which differs from the state-run and capital market sectors. *“The objective of social cooperatives is to create jobs for its members in disadvantageous situation, and to improve their social status in other ways”*. Amendment of Cooperative Act of 2017 relating the composition of the membership of social cooperatives has raised debates, which provides that among the minimum seven members of social cooperatives, in addition to natural persons, there must be a local municipality or national minority self-government or an association of these in a legal personality form, or a public benefit organisation engaged in charity activities as laid down in laws. Hungarian regulations allow members of social cooperatives to create employment in the form membership labour contract. In some views, Hungarian legislators intend to support income-earning potential for those specifically participating in public works, providing special tax and social security allowances.¹⁹⁵

V.1.2 Social economy in agriculture in Italy

The first European regulations relating to social enterprises has been adopted **in Italy** under the Social Cooperatives Act¹⁹⁶, which was followed in 2006 by the Act on Social Enterprises¹⁹⁷. For the purposes of the subject matter or this report, the most significant regulation was the Act on social agriculture in 2015¹⁹⁸.

The express purpose of the Act is to promote multi-functionality for agricultural enterprises, for individuals, families and local communities, in particular in rural areas. Social agriculture activities may be performed by individual farmers, and agricultural enterprises and social cooperatives. In addition to traditional work integration activities, a number of other activities are also regarded as social economy activity. These include for example social and other services performed for local community related to agricultural activities for recreational purposes and for transfer of knowledge and skills necessary for everyday life, besides those promoting social and work integration and recovery of health. Such activities furthermore include training relating to protection of the environment and foods, activities for the preservation of biodiversity, dissemination of information about the region in social and training farms, which also includes sessions held for kindergarten children and people struggling with social, physical and psychic difficulties. All these activities (except work integration activities) are deemed as secondary agricultural activities. The same applies to

social cooperatives that earn more than 30% of their revenues from agricultural activities from their total revenue. Persons and entities engaged in social agricultural activities have an advantage in tenders for school and hospital catering and have the right of first refusal in relation to certain arable lands to purchase or hire them.

V.2 Norway – social farm and udal law



Social farm services may prove to be secondary agricultural activity for farmers. Farmers have created a cooperative of their own for this purpose and they organise, control and perform quality assurance for, the green care service under a common name (brand) (Inn på tunet). Provision of accommodation for those under their care is deemed as part of the service and not as a separate provision of accommodation. Usually it is a municipality that uses and pays for the service. The service fee paid in relation to those in care for the social farm service provided by the farmer is a taxable income, however the yield produced by those in their care in kind is not considered part of the tax base of the farmer.

Those using the service do not participate in the usual food production. If they indeed participate in such production, the farmer is responsible for adherence to regulations and for production being in accordance with quality assurance rules.

In Norway, the Arable Law Act, to avoid lands - already in short supply - suitable for agricultural activities becoming too small in size, the rule of a single heir (udal law) - man or woman - is applicable. The ancient rights of families and guaranteed land prices also provide protection against speculations in land. In addition, the size of farms is also limited under regulations.

Udal law (alluvial right): When a land owned by a family is to be sold, the buyer needs to obtain a permission from the authorities to buy the land. When a farm is to be sold within a family, no permission from the authority is necessary, and the buyer must live at the farm for at least 5 years and ensure that the agricultural land is properly utilised. Lands may be sold at an officially regulated price. The price must be set in relation to the income that may be earned from farming and efforts must be made to avoid treatment of the farm a financial investment¹⁹⁹.

When a family land is to be sold, the family member holding the alluvial right (land ownership right) may lodge his/her claim to repurchase the land within 6 months. When no family member has expressed his/her intention to repurchase the land, the alluvial right ceases to exist in respect of that land. The family of the new owner may acquire this right after the lapse of 20 years. In the meantime, the land may be sold, inherited, just like any other asset.

The land / farm may be inherited by a single heir only (irrespective of whether an heir or heiress).

Secondment aid:²⁰⁰

The number of those choosing to pursue farming as a profession is on the decline. It is attributable to many reasons, one of it being constant presence required for farming as well as the hard-physical work required many times. There is no weekend and holiday. Norway has attempted change this setting by supporting recreation and free time activities. It is a compensation scheme making it easier for animal breeders to for a holiday and have free time. The purpose of the aid is to make it easier to pay the wage for hired work force. The schemes must contribute to the attainment of the objective of active and sustainable agriculture set by the Parliament.

V.3 Romania – Commons

Romania plays a unique and important part in European agriculture. It owns almost 1/3rd of the total agricultural land in the EU (31.5% of all EU farms) and has the 3rd smallest average

farm size (above only Malta and Cyprus). With 98% of farms in Romania using less than 10 hectares of land, it is truly a peasant farming country.²⁰¹ Commons is present in Romania primarily in forestry and the use of pastures. The Commons allow peasants to raise animals such as sheep, cattle, and goats without having to purchase extra land, sometimes called the ‘transaction cost argument’.

Commons, as a form of ownership, is part of historic treasure of Romania, and therefore it is “guaranteed, indivisible and unalienable” as declared by Article 95 of the Forestry Order Code of 46/2008²⁰².

Commons is a form of ownership between private and public (state) ownership.

There are three traditional types of common land associations for agricultural use in Romania – *composesorat*, *obste* and *izlaz*. *Composesorat* and *obste* are private properties used by members and are run by administrations made up of elected members. Membership in the *obste* can either be inherited or obtained simply through residence. It is mainly found in Wallachia and Moldavia. Meanwhile the *composesorat* can sometimes be used by non-members. The membership is usually inherited, and it is mainly found in Transylvania and Northern Romania. The *izlaz* is the third type of common land association and can be found throughout Romania. It is a public property that can be used by any inhabitant of the municipality. It is either run by the local mayor or an elected pastoral committee.

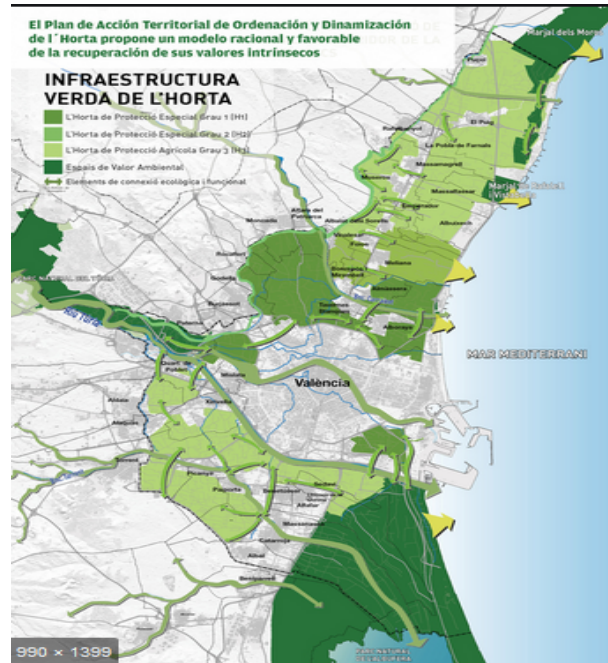
Common grazing land is a matter of survival for many farming families and individuals in Romania. Having livestock is an important economic benefit because it brings greater income and stability.

An *obstea* is an institute, an organisation engaged in the management of forestry commons. The decisions are made by the inhabitants at a village meeting in a democratic manner, by majority of the votes. There are two forms in existence.

- (i) When the forest is owned by a full village, with each inhabitant having one vote, and
- (ii) When it is operated on the basis of votes cast according to varying extent of ownership quotas.

V.4 Valencia - Huerta

In the south-east of Spain, close to the Mediterranean Sea, there are two special Spanish Mediterranean *huertas* (orchards) near **Valencia and Murcia** towns. The irrigation systems of both *huertas* make fertile, but arid river valleys cultivable, where thriving cultural farming landscapes produce mainly vegetables and fruits for centuries. Alongside the town of València, the Moors built an irrigation system on the river's water, which has been operating in a similar way ever since. The water in the river is raised to eight mother drains with water wheels, which split to 138 'rows' (sub-channels) and ensure that even the remotest plots receive water.²⁰³ The



3. Figure: System of Huerta in Valencia.

Source: <http://www.upv.es/contenidos/CAMUNISO/info/U0549942.pdf>

Tribunal of Waters of Vega València Watered Land is one of the oldest judicial institutions in Europe. Its dominant structure dates back to the Moors, probably around 960 AD. The Tribunal of Waters of Vega València Watered Land and the Council of Good Men of Murcia are recognized by Article 125 of the Spanish Constitution of 1978²⁰⁴ as means of public participation in the Administration of Justice. On this basis, Article 19 of the Organic law on Judicial Power²⁰⁵ mentions them among the courts of customary law.



4. Figure: Irrigated land management with Huerta system

Source: <https://www.hortaviva.net/en/we-say/what-is-la-huerta/>

The Tribunal of Waters of Vega València Watered Land has jurisdiction in València. It consists of eight magistrates (*sindicós*), who are democratically appointed by the landowners of the Huerta of Valencia, who have irrigation rights, from among themselves. The Tribunal is chaired by a receiver-president (*sindico presidente*), elected from among *sindicós* and assisted by a secretary. The tribunal has jurisdiction over the fair distribution of water among agricultural landowners, settling disputes between landowners with irrigation rights, and imposing sanctions in the event of violation of irrigation customary laws. Only full-time farmers may be members. The tribunal meets weekly and immediately delivers verdicts, which shall not be subject to appeal.²⁰⁶



5. Figure: The tribunal Source: <https://www.tribunaldelasaguas.org/en/el-tribunal-ing/historia-ing>

The Council of Good Men of Murcia serves similar purposes. It consists of a President, a Secretary and five voting Members. This Council also meets once a week and will deliver its judgment the same day, or at the latest on the next day of the hearing. Decisions are taken immediately, by a simple majority. In the case of an equal number of votes, the President's vote shall prevail. Decisions issued by this court are final, fixed and enforceable²⁰⁷.

After hundreds of years, the Huertas of València and Murcia began to decline in the second half of the 20th century. The safer water supplies due to the dam on the Turia River in València, the modernization of irrigation technologies has reduced the role of the several hundred years old irrigation systems and tribunals operated by local self-organization. Due to the uncoordinated expansion of the cities of València, Murcia and infrastructure (roads, railways), much cultivable land has been lost. The profitability of farming has declined, and more and more people are giving it up. As a result, the area of the Huertas of València and Murcia drastically decreased²⁰⁸. In order to protect the unique cultural, environmental and economic values, a law on the Huerta of València²⁰⁹ was adopted in 2018, which seeks to prevent further loss of land and its decline by a number of measures²¹⁰.

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- ⁶ whereas these smallholdings represent a model of social agriculture takes the view that simply reducing the number of small agricultural holdings should not be the main objective of restructuring, as this will not boost the competitiveness of larger holdings;
- ⁷ Family businesses in Europe European Parliament resolution of 8 September 2015 on family businesses in Europe (2014/2210(INI)) whereas in agriculture family farms are the most common business model and make a major contribution to the prevention of rural depopulation, and in many cases provide the only source of employment in the regions of Europe where development is lagging behind, particularly in less industrialised regions; whereas family farms can offer a template for success because in general they put the principle of the environmentally and socially sustainable circular-flow economy into practice, and because in that context women as leaders contribute not only entrepreneurial thinking, but also specific communication and social skills;
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The essence of the judgement:
Firstly, the European Court of Justice decided in the Endives judgment that practices such as coordination of volume and pricing policies as well as exchanges of commercially sensitive information between producer organisations (POs) and their associations (APOs) are prohibited under Article 101 TFEU. The Court also found that, under certain conditions, Article 101 TFEU may not apply within recognised POs and associations of producer organisations (APOs) to such activities carried out by a given PO/APO. The practices at hand must in particular be strictly necessary for and proportionate to carrying out the objectives assigned to the PO/APOs by EU legislation.
Secondly, as of 1 January 2018, Article 152 CMO, as amended by the Omnibus Regulation, provides for a derogation from Article 101 TFEU for recognised POs/APOs. To rely on the derogation, the PO/APO must integrate at least one activity of the producer members (e.g. transport, storage), genuinely exercise the activity, concentrate supply and place products of their members on the market.
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