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The importance of intergenerational transfer of family farms and a specific hungarian solution²

Abstract

After a short introduction to the EU, the present study aims to present the importance and generational situation of agricultural family-owned businesses in Hungary in the light of statistical data on the one hand, and the legal rules specifically applicable to them on the other, focusing on the definition of the concept and the specific Hungarian solution to facilitate intergenerational farm transfers.

Keywords: agricultural family-owned businesses, types of agricultural family business, the concept of family farms, intergenerational farm transfers, generational situation of family farms

Introduction

According to the EU survey³, agricultural family-owned businesses are the most common type of agricultural enterprise, contributing to the population retention of rural areas, providing employment opportunities for people living in rural areas, generally having a positive environmental and social impact, and many other benefits. For these reasons, their survival is of paramount importance, and one of the key issues is to increase the efficiency of intergenerational economic transfer.⁴

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2 | TKP2021-NKTA-51 has been implemented with the support provided by the Ministry of Culture and Innovation of Hungary from the National Research, Development and Innovation Fund, financed under the TKP2021-NKTA funding scheme.

3 | See for example Family businesses in Europe. European Parliament resolution of 8 September 2015 on family businesses in Europe (2014/2210(INI)) (2017/C 316/05)

4 | According to the European Commission's Entrepreneurship 2020 Action Plan (COM(2012)0795), the biggest challenge for agricultural family-owned businesses is the transfer of ownership and control of the business from one generation to the next. In its 2015 Resolution, the Commission called

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However, in the absence of a Community-level definition, there is no possibility to collect comparable information and data on the subject in the EU Member States, on the one hand, and to regulate at Community level, on the other. There are scattered and divergent national solutions, both in terms of the concept and the support for intergenerational transfers.

The present study aims to present the importance and generational situation of agricultural family-owned businesses in Hungary in the light of statistical data and the legal rules specifically applicable to them. In Hungary, in order to ensure targeted benefits and more efficient legal regulation, a special law defines the types and concepts of family agricultural enterprises, which is also referred to in EU documents as an example.⁵ In addition, a recently adopted specific Hungarian legal solution aimed at facilitating intergenerational farm transfers is also presented.

Agricultural holdings and family farms in the European Union

The vast majority of EU farmers⁶ (94.8% in 2020) were classified as family farms, defined as farms where at least 50% of the regular farm labour is provided by family members. Family farms were the dominant farm type in all Member States.⁷

EU family farms fall into three distinct size groups:

1. semi-subsistence farms, where the emphasis is on producing food to feed farmers and their families,
2. small and medium-sized farms,
3. large agricultural enterprises, which are more likely to have a legal form.⁸

on Member States to improve the legal framework conditions for the transfer of family businesses and to create special financing instruments for such transfers to ensure the continued existence of family businesses and prevent forced sales.

5 | Opinion of the European Economic and Social Committee on 'Family businesses in Europe as a source of renewed growth and better jobs' (own-initiative opinion) (2016/C 013/03)

6 | Farming here refers to the production of crops and livestock, which produces agricultural products and services, and the production of basic foodstuffs. The resources or 'factors of production' used for this can be broadly categorised as land, labour, knowledge, capital and entrepreneurship.

https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Farms_and_farmland_in_the_European_Union_-_statistics

https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Farms_and_farmland_in_the_European_Union_-_statistics#Farms_in_2020

7 | https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Farms_and_farmland_in_the_European_Union_-_statistics

8 | https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Farms_and_farmland_in_the_European_Union_-_statistics#Farms_in_2020

Family farms occur in all size groups, but are typically classified as 1 and 2. The majority of EU farms are small. In 2020, almost two thirds of EU farms were smaller than 5 hectares.⁹

Neither at international level nor in the European Union is there a generally accepted definition of a family farm, but there are some proposed definitions.¹⁰

According to the European Economic and Social Committee (EESC), to qualify as a family farm, an agricultural farm must have the following characteristics:

- | Decisions concerning the business are made by family members.
- | The core of the work on the farm is done by family members.
- | Land and other property, most of the capital, is also owned by the family or a local community.
- | The family also has control over the running of the business.
- | The farm is passed down from generation to generation within the family.
- | The family lives on or near the land and plots belonging to the farm.¹¹

Within the EU, the agricultural sector operates under the Common Agricultural Policy (CAP).¹² The CAP 2014-2020 stressed that the family farm is the

9 | Rachele Rossi: Small farms' role in the EU food system. European Parliamentary Research Service, 2022. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733630/EPRS_BRI\(2022\)733630_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733630/EPRS_BRI(2022)733630_EN.pdf)

10 | According to FAO's working definition, family farming is a means of organizing agricultural, forestry, fisheries, pastoral and aquaculture production that is managed and operated by a family, and that is predominantly reliant on the family labour of both women and men. The family and the farm are linked, co-evolve and combine economic, environmental, social and cultural functions. Family farmers include mountain farmers, artisanal fisherfolk, pastoralists and forest dwellers, while family farms may include members of multiple generations managing and working on the farm (FAO, 2013). Simon Blondeau and Anna Korzenszk: Family farming. Legal Brief, 8 March 2022., Rome, FAO. <https://doi.org/10.4060/cb8227en>. <https://openknowledge.fao.org/server/api/core/bitstreams/5a5ec564-5692-4bf9-b32b-0ee0417eaf1b/content>

Further information:

Substantive definition: Family farming is "a means of organizing agricultural, forestry, fisheries, pastoral and aquaculture production which is managed and operated by a family and predominantly reliant on family capital and labour, including both women's and men's. The family and the farm are linked, co-evolve and combine economic, environmental, social and cultural functions".

International Year of Family Farming 2014 Master Plan (final version) (30 May 2013)

https://www.fao.org/fileadmin/user_upload/iyff/docs/Final_Master_Plan_IYFF_2014_30-05.pdf

<https://www.fao.org/world-agriculture-watch/tools-and-methodologies/definitions-and-operational-perspectives/family-farms/ar/>

The evolution of the concept of family farms is presented in a table in the following literature:

Sigrid Egartner - Thomas Resl: Einblicke in Österreichs Landwirtschaft seit dem EU-Beitritt Insights into Austrian agriculture since the EU accession, 42-45.

Schriftenreihe 108 der Bundesanstalt für Agrarwirtschaft Wien, 2015.

ISBN: 978-3-901338-36-6

https://bab.gv.at/jdownloads/Publikationen/Archiv/AWI/Schriftenreihe/SR108_20_J_EU-Beitritt.pdf

11 | Opinion of the European Economic and Social Committee on 'Land grabbing – a warning for Europe and a threat to family farming' (own-initiative opinion) (2015/C 242/03) See Point 5.2.

12 | https://agriculture.ec.europa.eu/cap-my-country/cap-strategic-plans_en

foundation of European agriculture and at the heart of the European agricultural model.¹³

Several other documents discuss the beneficial and valuable role of family farms in agriculture. Small family farms contribute to reducing the risk of rural poverty by providing additional income and food.¹⁴ They emphasise their role in creating vibrant rural areas and preserving rural landscapes¹⁵, protecting the environment, ensuring food safety¹⁶, the survival of regional products, organic farming, health protection (e.g. producing more than one type of product, direct to the consumer or through a short supply chain),¹⁷ ensuring biodiversity, etc.¹⁸

The CAP 2023-27 continues to emphasise the importance of small and medium-sized farms, including family farms, as they play an important role in achieving one of the main objectives of the CAP, namely to maintain agricultural production throughout the EU. It points out, however, that in recent years structural changes have particularly affected small and medium-sized farms,

13 | For the first time the CAP 2014-2020 gave special attention to small family farms, in line with the International Year of Family Farming 2014. A process of reform began. Family farms account for 95% of all farms in the EU. Most farms, including family farms, farm less than five hectares of land. At the same time, large farms (over 100 hectares) account for more than half of agricultural land and make up a very small proportion of farms. CAP support has traditionally been area-based, so the lion's share of funding has gone to larger farms. The reform has therefore been designed to ensure a fairer distribution of support to small farms, including family farms.

<https://foodtank.com/news/2014/05/countries-and-one-common-agricultural-policy-european-family-farmer/>

14 | [https://www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT\(2014\)529051_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT(2014)529051_EN.pdf)

15 | Further information can be found in "Opinion of the European Economic and Social Committee on 'Land grabbing – a warning for Europe and a threat to family farming' (own-initiative opinion)" (2015/C 242/03) See Point 4.7.

As an example, in Scotland 200 years ago, a piece of land the size of the Netherlands was divided into lots of between 8,000 and 20,000 hectares and sold to investors. The area was previously home to between 1.5 and 2 million people. It has been depopulated by industrial farming. They are currently working to repopulate the area, which will cost a lot of money, considerably more than if they had preserved the small farm-based agricultural model.

16 | Opinion of the European Economic and Social Committee on 'Land grabbing – a warning for Europe and a threat to family farming' (own-initiative opinion) (2015/C 242/03) Point 5.

17 | Rachele Rossi: Small farms' role in the EU food system. European Parliamentary Research Service, 2022.

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733630/EPRS_BRI\(2022\)733630_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733630/EPRS_BRI(2022)733630_EN.pdf)

18 | Thia Hennessy: CAP 2014-2020 tools to enhance family farming: opportunities and limits (in-depth analysis), European Union, 2014., p. 13.

[https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT\(2014\)529051](https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT(2014)529051)
[www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT\(2014\)529051_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT(2014)529051_EN.pdf)

doi: 10.2861/56801

a significant proportion of which are family farms.¹⁹ While the number of farms in the EU fell by around 25% between 2010 and 2020, the decline was more significant for small farms (31%). Ensuring their survival is a priority.²⁰ As a result, family farms have become a priority for support in recent years. Despite political and financial support, family farms in Europe still face a number of challenges.²¹ One of these is adverse demographic change. With a third of farmers in the EU-27 aged 65 or over, generational renewal is needed, which is essential for the sustainability of family farms.²²

Given the significant barriers to entry into European agriculture, relatively scarce and extremely expensive land, limited and costly access to credit, and low income-generating capacity, entry into farming is usually through inheritance, and rarely occurs outside inheritance.²³

19 | Vö. Schuh, B. et al.: The Future of the European Farming Model: Socio-economic and territorial implications of the decline in the number of farms and farmers in the EU. Research for AGRI Committee. European Parliament, Policy Department for Structural and Cohesion Policies, Brussels, 2022., p. 141.

ISBN 978-92-846-9234-7 | doi:10.2861/921074 | QA-08-22-104-EN-C

[www.europarl.europa.eu/RegData/etudes/STUD/2022/699620/IPOL_STU\(2022\)699620_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2022/699620/IPOL_STU(2022)699620_EN.pdf)

20 | Chartier, O., Kruger, T., Folkesson Lillo, C. et al.: Mapping and analysis of CAP strategic plans – Assessment of joint efforts for 2023-2027, Chartier, O.(editor), Folkesson Lillo, C.(editor), European Commission, Directorate-General for Agriculture and Rural Development, 2023, p. 955.

DOI 10.2762/71556

ISBN 978-92-68-05351-5

<https://op.europa.eu/en/publication-detail/-/publication/80d12120-89bc-11ee-99ba-01aa75ed71a1/language-en>

For an analysis of structural change in agriculture, see Alan Matthews: Farm consolidation continues, January 1, 2021.

<http://capreform.eu/farm-consolidation-continues/>

21 | Thia Hennessy: CAP 2014-2020 tools to enhance family farming: opportunities and limits (in-depth analysis), European Union, 2014., p. 13-16., 25., 45.

[https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT\(2014\)529051](https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT(2014)529051)

[www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT\(2014\)529051_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT(2014)529051_EN.pdf)

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22 | However, Professor Alan Matthews points out that the ageing of the European workforce is a general social phenomenon, with the increase in the number of ageing farmers and the decrease in the number of younger entrants being largely due to this. The average age is increasing, the older generation is in better shape and stays longer in the workforce. The younger generation enters the labour market later for various reasons. He does not see the problem getting worse in agriculture. However, it recognises that it would be desirable to alleviate the unfavourable age distribution in agriculture and to encourage the younger generation to farm or take over the family farm.

Alan Matthews: Is there a particular generational renewal problem in EU agriculture? April 17., 2018.

<http://capreform.eu/is-there-a-particular-generational-renewal-problem-in-eu-agriculture/>

23 | Thia Hennessy: CAP 2014-2020 tools to enhance family farming: opportunities and limits (in-depth analysis), European Union, 2014., p. 14.

[https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT\(2014\)529051](https://www.europarl.europa.eu/thinktank/en/document/IPOL-AGRI_NT(2014)529051)

[www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT\(2014\)529051_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2014/529051/IPOL-AGRI_NT(2014)529051_EN.pdf)

doi: 10.2861/56801

The ten main objectives of the CAP 2023-27 therefore continue to include the promotion of generational renewal.²⁴ One leg of this is to help older generations to transfer the farm, the other is to attract new, young farmers to the farm.²⁵

Family farming and forms of family business in the Hungarian agriculture

After the change of regime, farming units and business forms in Hungarian agriculture developed in a specific and heterogeneous way. This fragmented structure made it difficult to adopt a uniform approach to regulation, agricultural administration, and the granting of subsidies and other benefits, such as tax allowances.

In Hungarian agriculture, *especially in the area of land-use farming, there are many family businesses*. In 2020, a significant proportion of farmers in Hungarian agriculture were small-scale farmers and family farms within the category of small and medium-sized farmers.²⁶ To provide targeted benefits, it was necessary to define the family economy. These are the farms that can ensure the retention power of the local presence of rural areas and agriculture, since it is the activity of small and medium-sized family farms that can ensure the preservation of agricultural diversity and strengthen the adaptability of agriculture.

The state intervention was therefore guided by several objectives, which resulted in *Act CXXIII of 2020 on family farms*.

According to Article P Sector (2) of the Fundamental Law of Hungary, the rules applicable to *family farms and other agricultural farms* must be laid down in a cardinal law²⁷, based on the importance of the legislation is shown.²⁸

24 | "A vibrant agricultural sector needs skilled and innovative young farmers to respond to societal demands, from quality food to environmental public goods."

https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-2023-27/key-policy-objectives-cap-2023-27_en

25 | The challenges of the young generation of Hungarian agriculture is discussed in the paper of 'Legal Responses to the Challenges Facing the Young Agricultural Generation' by Peter Hegyes in *Journal of Agricultural and Environmental Law*, 17 No. 33 (2022), pp. 51–62 [Online].

Available at <https://doi.org/10.21029/JAEL.2022.33.51>

26 | According to the data provided by the Secretary of State of the Ministry of Agriculture during the parliamentary debate on the draft law on family farms, 290,251 people had a farmer's identity card, 23,555 family farms were in operation, employing 83,272 people. More than half of the farmers were over 55 years old, and the proportion of those under 35 was less than 10 percent, showing a deteriorating age composition compared to previous surveys. The age composition of those classified as smallholders and family farm managers also showed a negative trend.

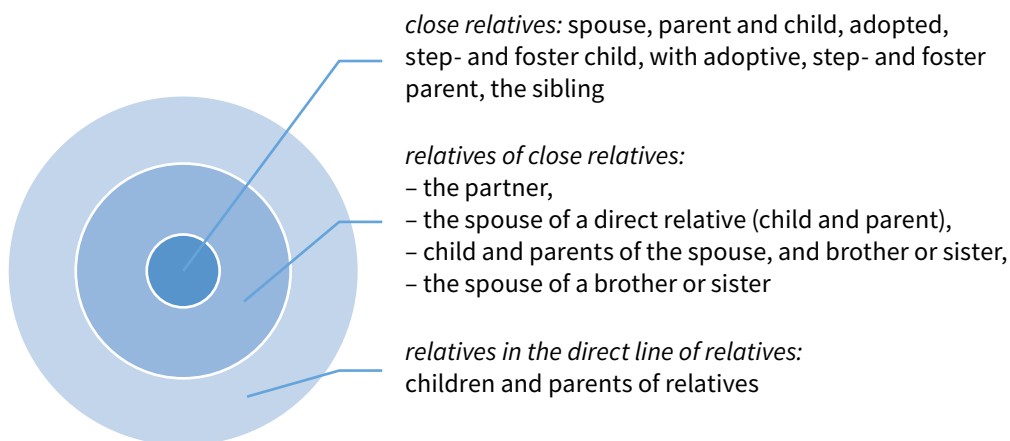
27 | According to Article T Sector (4) of the Fundamental Law of Hungary, a cardinal law is a law which requires a two-thirds majority of the votes of the Members of Parliament present to be passed and amended.

28 | See Csilla CSAK, Zsófia HORNYAK, Flora OROSZ: The farm model based on constitutional value. In *Journal of Agricultural and Environmental Law*, Vol. 17 No. 33 (2022), p. 13. [Online]. Available at <https://doi.org/10.21029/JAEL.2022.33.7>

The main aim of the law adopted in 2020 was to define in a uniform way the forms of family farming, to define family farming.²⁹

Family farming is defined as agricultural and forestry activities carried out with the participation of family members, using their resources (e.g. their labour, tools, property, material resources) jointly for the purpose of securing their common livelihood, and complementary activities. The law interprets the scope of family members rather broadly, introducing the category of *related chain*³⁰, in order to ensure that the joint farming of persons who are distantly related is also considered to be family.³¹

Persons under the umbrella of the chain of relatives:



The law distinguishes between three types of agricultural family business: *the small-scale farmer*, the family farm of *small-scale* farmers and the family

29 | In addition to the tax relief, there are other advantages of this qualification, e.g. in the case of the purchase of agricultural land, the family farmer is ahead of nonfamily farmers in the pre-emption queue.

30 | According to Article of Act CXXIII of 2020 on Family Farms Section 2 Point b, the chain of relatives is defined as the group of natural persons in a close family relationship, their relatives and the direct relatives of these relatives.

According to Act V of 2013 on the Civil Code (Civil Code), Section 8:1 (1) Point (1): close relatives are spouse, direct relative, adopted, step and foster child, adoptive, step and foster parent and sibling.

Point 2: relative means a close relative, a partner, the spouse of a relative in the same line of marriage, the spouse's relative in the same line of marriage and brother or sister, and the spouse of a brother or sister.

Civil Code Section 4:96. (1): there is direct kinship between those who are descended from one another.

31 | See Istvan OLAJOS: Creation of Family Farms and its Impact on Agricultural and Forestry Land Trade Legislation. in Journal of Agricultural and Environmental Law, Vol. 17 No. 33 (2022), pp. 105-117. [Online].

Available at <https://doi.org/10.21029/JAEL.2022.33.105>

agricultural *company*. To be recognised as a family agricultural holding, all three types of enterprise must be registered with the competent agricultural chamber.

It should be stressed, however, that in Hungary not only family businesses are active in the agricultural sector, but also a number of other legally recognised enterprises belonging to other communities of interest.

A *small-scale farmer* is a natural person who carries out an agricultural activity independently on his own holding.

A family farm of the small-scale farmer is a new form of business set up by at least two members of the family farming community who are related to each other. It is a community of production made up of natural persons (sharing the assets and property of any one of them, sharing profits and losses). It is a written contractual partnership which does not create a separate legal entity, with no separate assets from the members' property. The members carry out their farming activities jointly on their own farms, each of them being personally involved in the management, and therefore, a farmer can only be a member of a family farm of *small-scale farmers*.

The *family agricultural company* is also a completely new category in the Hungarian agricultural legislation, unprecedented in the past.

Contrary to its name, a *family agricultural company* can take several forms of legal entities, such as a company, a cooperative or a forestry cooperative.

Two conditions must be met to qualify as a *family agricultural company*:

- | it must have at least two members who are related to each other, i.e. there must be a family relationship between them;
- | they must be engaged exclusively in agricultural and forestry activities or in ancillary activities as defined by law.

For the reason that personal participation in family agricultural holdings is required, a person may be a member of only one such company at a time.

Agricultural family farms and their generational situation in Hungary in the light of figures

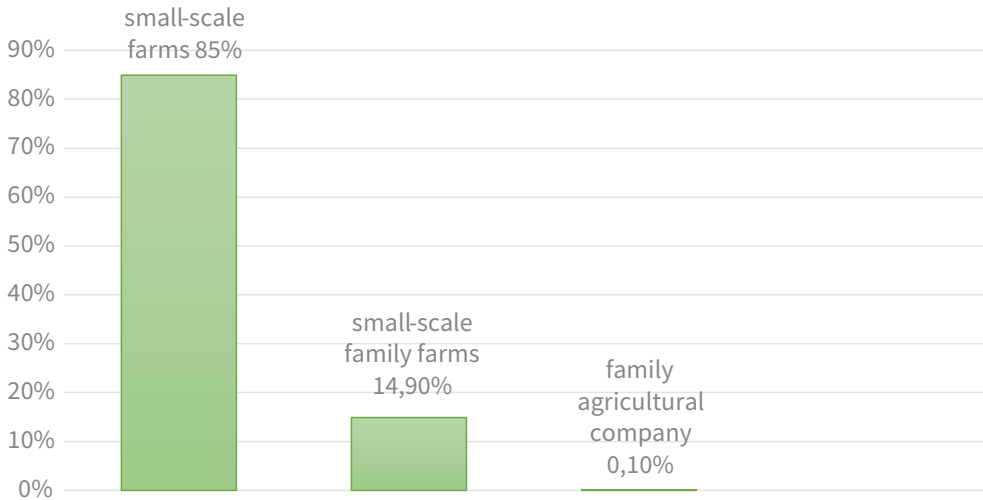
According to the 2023 annual report of the National Chamber of Agriculture published in 2024, there are 55,058 farmers, 9704 family farms and 63 family agricultural companies registered.³² In total, there are 64,825 family farms in the Hungarian agricultural sector in the legal sense.

Compared to the number of Hungarian agricultural enterprises reported as a result of the agricultural census, their number is not high, but their importance should be emphasised in the sense that in Hungary, with few exceptions, only

32 | https://www.nak.hu/images/01_NAK_Tajekoztato/04_NAK-szamokban/NAK_2023-szamokban.pdf

natural persons can acquire ownership of agricultural and forestry land, and as a consequence family farms are the main ones engaged in related activities.

Breakdown of registered family farms by type of enterprise



The Hungarian Central Statistical Office carried out a comprehensive statistical data collection in the agricultural sector in 2020 and 2023 on the basis of Regulation (EU) 2018/1091 on integrated agricultural statistics and its implementing Regulation (EU) 2021/2286 (agricultural census).

The survey covered agricultural farms. The Regulation defines a farm as a self-managed, technically and economically distinct unit carrying out designated agricultural activities within the economic territory of the Union, either as a principal or secondary activity³³, in accordance with specific EU legislation.

The statistical survey covers only farms and agricultural units above the thresholds set in the Regulation.

A complete agricultural data collection covering all municipalities and farms above the thresholds defined in the Regulation is carried out every ten years, the last time in 2020. For this reason, the statistical data for 2020 are considered more focused.

33 | This includes the production of non-perennial crops in group A.01.1, the production of perennial crops in group A.01.2, the production of plant propagating material in group A.01.3, the production of livestock in group A.01.4, mixed farming in group A.01.5 or the maintenance, care and protection of the ecology of agricultural land in group A.01.6, as defined in Regulation (EC) No 1893/2006. For the activities in A.01.49 (rearing of other animals), 'rearing of semi-wild or other live animals' (excluding insects) and 'keeping of bees, production of honey and beeswax' are included.

Based on the data of the census in 2020, there were 241,000 agricultural holdings (not the same as family farms) in Hungary.

The average age of all managers was 57.9 years, 57.1 for men and 59.6 for women. In 2010, 28% of farms were managed by persons aged 65 and over, in 2020 35%.

Managers aged between 70 and 75 represent 10%. The vast majority of managers, 70%, are aged between 45 and 74, and only 10% were under 40 in the year of the survey.

The survey also asked how many more years farmers plan to farm. 45% of the farmers surveyed did not answer this question, 18% planned to farm for 5 years or less and 26% said they planned to farm for more than 10 years.

The average age of farmers is high in the data, and this is the group that is thinking of transferring in a few years.

The question of 'How do you see the future of the economy?' was not answered by 55% of farmers surveyed. Over half of farmers aged 65 and over responded, compared to 40% of farmers under 40.

86% of all respondents said that they envisaged the continuation of their farm within the family after they had stopped farming.

80% of farmers aged 65 and over think that they will be succeeded within the family, compared with over 90% of farmers aged under 40.

The majority of farmers with a long-term vision, mainly young farmers, envisaged the transfer of their farm within the family.³⁴

On individual farms, the amount of work done by the farmer and family members assisting him has declined slightly over the past 10 years, from 70% of total work in 2010 to 56% in 2020.

Of the family labour, 66% is the farmer's own labour and a further 15% is related to the farmer's spouse or partner. The remainder is accounted for by the work of the extended family and distant relatives.

On smaller farms, family labour accounts for 93%. As the size of the farm increases, this decreases steadily to 1% in the highest size category. Only partial results of the 2023 statistical survey have been published (published data are final).³⁵ On 1 June 2023, there were only 196,000 agricultural farms in the country. In recent years, mainly smallholdings with few livestock have abandoned farming, resulting in a further increase in the size of properties. The ageing of the farming population has continued. The proportion of farmers aged 65 and over has increased from 35 to 37% in 2020. 23% of managers are in the 45-54 age bracket and another 23% in the 55-64 age bracket.

In 2023, 55% of managers did not respond to the question of how long they intend to continue managing. 12% of farm managers plan to farm for 5 years or less,

34 | https://www.ksh.hu/docs/hun/xftp/ac2020/mezogazdasagi_munkaero_generaciovaltas/index.html

35 | <https://www.ksh.hu/s/kiadvanyok/agrarium-2023-elozetes-adatok/>

compared to 18% in 2020. 24% of respondents plan to farm for more than 10 years, a decrease of 2% compared to 2020.

The data reflect a declining number of farms, a high average age of farmers, 60% of managers over 55 years old, and an increase in the number of older managers over the last decade. The number of farmers planning to farm for more than 10 years has decreased. Younger farmers are those who tend to plan for the longer term. The vast majority of respondents (86%) (45% who answered this question) want to pass the business on within the family.

The Hungarian solution to the transfer of the agricultural farm

The EU and Hungarian statistical surveys in the agricultural sector have also shown that a significant part of the generation in Hungary who started their agricultural business after the change of regime has reached retirement age. The first major change of agricultural generation is due. Experience has shown that the biggest difficulties in the transfer of agricultural holdings are the administrative tasks and the transfer of specific assets, which is a very complex process involving not only the transfer of real estate (land, houses, crops and other storage and livestock buildings, etc.) but also the transfer of the farm assets and movable assets (machinery, crops, livestock, tools, equipment, etc.), as well as the succession of various subsidies (tenders), public authorisations, contractual positions, company shares, other legal entity holdings in companies. The agricultural and forestry activity carried out by agricultural holdings creates a special group of assets which is not only a group of goods and rights but also includes various rights which, taken as a whole, have a greater value.³⁶

The responsible ministry has therefore started to develop a new legal solution that can provide a framework for a smooth transfer of things, rights, entitlements, etc.

The legislative work resulted in Act CXLIII of 2021 on the Transfer of Agricultural Holdings. The introductory provisions of the law set out the legislative objectives, the first of which is to facilitate the transfer to the next generation of the farm as a unique asset, created through the participation of family members, the joint use of their resources and the results of their work for their common well-being. It is necessary to emphasise that the law covers the transfer of the holding of the agricultural holder (including the small-scale family farms) and the individual entrepreneur engaged in agricultural, forestry and ancillary activities (many of whom are not yet registered as small-scale farmers).³⁷ This is probably due to the fact that these are the types of

36 | See more Mihály Kurucz: Agricultural law's subject, concept, axioms and system. in Journal of Agricultural and Environmental Law No. 2. (2007), pp. 52-53 pp. [Online] Available at: <https://epa.oszk.hu/01000/01040/00002/pdf/00002.pdf>

37 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 1.

enterprise where private ownership and entrepreneurial assets are mixed, and all this is personal, i.e. the transfer involves a change of subject, a change in the person of the holder. In the case of a family agricultural company, a separate legal entity has all the rights, but here a company share is transferred, so the person entitled does not change. This results in a simpler situation.

According to the law, the parties may settle all issues by means of a *single contract*, the so-called *farm transfer contract*.

In a contract, they may provide for the transfer of ownership of several things – movable and immovable property – property rights or company shares, and may determine the consideration in one lump sum without having to indicate the consideration for each asset separately, moreover, this contract also provides for general legal succession in relation to official licenses, subsidies and contractual positions.

The transfer of the holding may take place not only for a fee, but also free of charge, and the transferee may undertake to keep the transferor in kind or to pay an annuity.

The Act focuses exclusively on cases where the older generation wishes to cease their activities and transfer their agricultural economy to the younger generation because of their old age, i.e. they do not wish to start a new agricultural and forestry activity. The farm transferor must undertake to cease its activities relating to the holding.³⁸

In order to ensure that the statutory objective cannot be circumvented, the circle of both the transferor and the recipient of the holding is defined.³⁹

According to the Act, a *farm transferor* is a farmer who has reached retirement age⁴⁰ or has reached the maximum of 5 years from the conclusion of the contract, who has carried out agricultural activities for at least 10 years in his own name and at his own risk, from which he has generated a proven turnover, and has been the owner land user or other land user for at least 5 years of more than three-quarters of the area of agricultural and forestry land specified in the farm transfer contract. The *farm transferee* is a farmer who is at least ten years younger than the farm transferor, has reached the age of 50, meets the conditions laid down by law for the operation of the holding to be taken over, and who has been *in a chain of relatives* with the farm transferor or has had a working relationship with the farm transferor for at least 7 years.

The farm transfer contract means legal succession in relation to official licenses, contractual positions and subsidies.⁴¹

38 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 4.

39 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 2.

40 | Act LXXXI of 1997 on Social Security Pension Benefits Section 18 (1) The retirement age for old-age pension benefits under the social security system shall be:
g) the 65th birthday for persons born in 1957 or thereafter.

41 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 13-15.

Positions in various contracts concluded by the farm transferor may also be transferred without the permission of the contracting partner. Of course, the farm transfer contract must specify precisely the civil law contracts that are involved. The various civil law contracts concluded by the transferor do not therefore have to be re-concluded, but the transfer contract puts the transferee in the contractual position of the transferor. To this end, the parties shall stipulate in the farm transfer contract that the contractual obligations shall be assumed by the farm transferee in accordance with each contract.

Under the farm transfer contract, the transferee shall replace the transferor in respect of all official authorisations required to carry out agricultural and forestry activities related to the holding, if he so requests and complies with the conditions laid down by law. The authority shall then amend the authorisations.

Subsidies shall also be transferred provided that the recipient is also entitled to them. If the recipient does not meet the eligibility criteria, the aid is terminated, the legal relationship is terminated, there is no obligation to repay, the subsidy relationship ends.

The farm transferor may decide not to transfer ownership of the land, but only to transfer its use. In order to protect third parties, the law stipulates that the use of land owned by the farm transferor but used by third parties may not be transferred by the farm transferor to the farm transferee.

A significant advantage of the farm transfer contract is that it contains numerous facilitations compared to the classic transfer of land,⁴² e.g. agricultural and forestry lands transferred by a farm transfer contract are free from the right of

42 | Detailed rules on land transfer by Janos Ede Szilagyi (2022) 'Hungary: Strict Agricultural Land and Holding Regulations for Sustainable and Traditional Rural Communities' in Szilagyi, J. E. (ed.) *Acquisition of Agricultural Lands: Crossborder Issues from a Central European Perspective*. Miskolc-Budapest: Central European Academic Publishing. pp. 145–197.
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<https://real.mtak.hu/154764/1/CEALSCEPhD05AcquisitionofAgriculturalLands06e-konyv.pdf>

See more: Csilla Csak: Constitutional issues of land transactions regulation. in *Journal of Agricultural and Environmental Law*, Vol. 13 No. 24. (2018), pp. 5–32 [Online].

Available at <https://doi.org/10.21029/JAEL.2018.24.5>

Kriszta Banyai: Theoretical and practical issues of land obtaining restrictions in Hungary. in *Journal of Agricultural and Environmental Law*, Vol. 11 No. 20 (2016), pp. 5–15 [Online].

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Istvan Olajos: The acquisition and the right of use of agricultural lands, in particular the developing Hungarian court practice. in *Journal of Agricultural and Environmental Law*, Vol. 12 No. 23 (2017), pp. 91–103 [Online].

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<https://ojs.mtak.hu/index.php/JAEL/article/view/2453/1772>

Adrienn NAGY – Laszlo LAURIK: Sale of Agricultural and Forestry Land in Enforcement Proceedings in Hungary. in *Journal of Agricultural and Environmental Law*, Vol. 17 No. 33 (2022), pp. 5–32 [Online].

Available at <https://doi.org/10.21029/JAEL.2022.33.93>

pre-emption, contracts transferring ownership do not have to be posted, lease agreements do not have to be re-concluded, posted, etc.⁴³

The farm transferor may decide not to transfer ownership of the land, but only to transfer its use. In order to protect third parties, the law stipulates that the use of land owned by the farm transferor but used by third parties may not be transferred by the farm transferor to the farm transferee.

The farm transfer contract can be concluded in 4 types of contracts: the sales contract, the gift contract, the contract of support and the annuity contract.⁴⁴ These four types of contracts may be supplemented by the use of agricultural and forestry land if, by agreement between the parties, the transferor retains ownership of the agricultural and forestry land. A mix of different types of contracts may be applied at the discretion of the parties. In this case, it is necessary to specify exactly according to which type of contract each element of the economy will be transferred. The Act defines the mandatory content elements of the farm transfer contract.

The farm transfer contract must be drawn up in an authentic instruments or countersigned by a lawyer. The contract for the transfer of holdings shall be submitted to the agricultural administration for approval within sixty days of its conclusion. The agricultural administration shall take a decision within 60 days of receipt of the documents.⁴⁵

During the institution of farm transfer, it may be important for the transferor to share his knowledge, business contacts and experience with the recipient. The law provides a solution for this as well, the farm transferor and the farm recipient can agree on cooperation lasting up to 5 years.⁴⁶ During the period of cooperation, the transferee personally participates in the management of the holding concerned. In the course of cooperation, the parties shall, as a general rule, be entitled to conduct matters jointly and take their decisions jointly. The costs shall be borne jointly and equally and shall share in the results in a similar share. The parties may deviate from these in the cooperation agreement.

The farm transferor shall transfer all elements of the holding on the last day of the cooperation period and, depending on the situation, ensure the use of the land to the transferee.

The law offers only one possibility of transferring farms, the parties may also decide to use classic civil law contracts.

43 | See Istvan Olajos: The farm transfer contract as a type of contract establishing generational renewal. in *Advocat*, 2 (2022.) pp. 29-35.

http://www.miskolciugyvedikamara.hu/files/699/ADVOCAT_2022_2_SZ%C3%81M.pdf

44 | Details about this type of contract by Janos Dul: Certain civil law aspects of the law on the transfer of agricultural holdings. In *Debreceni Jogi Műhely*, Vol. 20. No. 1-2. (2023.) pp.65-97. [Online].

Available at <https://doi.org/10.24169/DJM/2023/1-2/4>

45 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 12.

46 | Act CXLIII of 2021 on the Transfer of Agricultural Holdings Section 10.

In the case of agricultural enterprises operating exclusively in the form of a company, members or shareholders can transfer their shares in the company on the basis of company law rules.

Summary

Both in the Member States of the European Union and Hungary, agricultural family farms perform a number of important functions that large industrial farms cannot perform. For example, their role in maintaining diverse agricultural production is irreplaceable. For a number of reasons, it is important to protect family farms, to ensure their survival and in connection with this, to support generational renewal. The EU has issued several documents calling on Member States to facilitate farm transfers. Both Community and national legislation is hampered by the lack of a uniformly agreed concept of family businesses or family farms. A few Member States can boast their own definition as Hungary. The document of “A Opinion of the European Economic and Social Committee on ‘Family businesses in Europe as a source of renewed growth and better jobs’” point 3.2. mentions two countries, where an attempt has been made to define agrarian family farms in legislation:

- | Hungary has adopted a definition of agricultural family-owned businesses.⁴⁷
- | In Austria family businesses are defined by the regional law on agriculture.⁴⁸

In the meantime, a law on family agricultural holdings (obiteljska poljoprivredna gospodarstva/OPG, 2018) has also been adopted in Croatia, which defines it as follows:

“an organisational form of agricultural operation of farmers (natural persons) who work to generate their income and independently and permanently perform farming and other linked activities”.⁴⁹

The issue of generational renewal is topical throughout Europe due to the development of the demographic situation, and it takes on special significance in Hungary, because agricultural entrepreneurs of the regime change that occurred in 1989 are now reaching retirement age.

47 | This was an earlier, rudimentary experiment. See more Janos Ede Szilagyi: Changes in the theory of agrarian law? in Miskolci Jogi Szemle, Vol. 11. No. 1 (2016), p. 40.

48 | In addition, two acts – Niederösterreich: NÖ Landwirtschaftsgesetz és Oberösterreich: Oö. Landwirtschaftsgesetz – mentions family agricultural farm as supporting institution, indeed, but conceptual definition is not provided.

49 | Tatjana Josipovic: Acquisition of Agricultural Land by Foreigners and Family Agricultural Holdings in Croatia – Recent Developments. in Journal of Agricultural and Environmental Law, Vol. 16. No.30 (2021), p. 115. [Online].

https://epa.oszk.hu/01000/01040/00032/pdf/EPA01040_agrar_es_kornyezetjog_30.pdf

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The transfer of an agricultural farms is not easy in many respects, e.g. emotional, social, social security, legal. There are several unfoldings⁵⁰, but perhaps the Hungarian legal solution, the law on the transfer of agricultural holdings, is the most breakthrough. The impact of the law and its success cannot yet be assessed, as it entered into force only a year and a half ago, on 1 January 2023. However, the legislator's determination, forward-looking intentions and boldness in breaking through the classical civil law contractual framework are certainly proven by the birth of the law. The law certainly promotes generational renewal. On the one hand, by requiring the transferor to cease its activities, but by allowing for a transitional cooperation period of up to 5 years, during which the know-how can also be transferred. On the other hand, the transfer of all things, rights, claims, contractual positions belonging to the economy – which would otherwise require the conclusion of several civil law transactions – and the legal succession of official permits and subsidies can be flexibly solved with a single contract, which would not be possible under the classical civil law framework.

50 | For example in Germany, Switzerland and Austria information booklets and guidelines are provided by professional agricultural institutions regarding transferring family business. In Austria a model of contract is also provided. In general, the transfer of family business, including agricultural holdings, is supported by the new legislation pack in Austria that ensures the cooperation with the tax authority in order to the obtaining a settled enterprise by the transferee.

„Unkomplizierte Betriebsübergabe unterstützt Familienbetriebe und KMU“ (2024. 04. 10.)

<https://www.bmf.gv.at/presse/pressemeldungen/2024/april/grace-period-gesetz-betriebs%C3%BCbergaben.html>

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