

István OLAJOS*
Creation of Family Farms and its Impact on Agricultural and Forestry Land
Trade Legislation**

Abstract

In the next article, I would like to summarise how the fundamental law on family farms, which entered into force in 2021, had an impact on the established rules of Transaction of agricultural and forestry land in Hungarian law.

Keywords: Family Farms Act, legal acts on transaction of agricultural and forestry land, Article P of Hungarian Fundamental Law, primary producers, family holdings of primary producers, family agricultural company

1. Guideline and questions to be answered

I am looking for the answer to the advantages of the forms of enterprise governed by the Family Farms Act in the field of Transaction of agricultural and forestry land. The Hungarian Fundamental Law P. Section.¹ In this article, it defines agricultural land, forests and water resources, biodiversity, in particular indigenous plant and animal species and cultural values as natural resources. For the protection of natural resources, the Fundamental Law provides for the creation of three fundamental laws.²

The first is the Transactions of agricultural and forestry land Act adopted in 2013, which is itself a framework law, and can be amended by a simple majority of its detailed rules, which (DTAL I will shorten it) and a number of implementing regulations. Transaction of agricultural and forestry land laws form the backbone of Hungarian agricultural legislation, and a number of decisions of the Constitutional Court other than civil law and decisions of the Curia legal unit are linked to the area of law. I refer to these laws as legal acts of transaction agricultural and forestry land.³

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¹ See more: Bándi 2020, 7–8; Bándi 2019, 3–5; Csák 2012, 17–18; Fodor 2013, 331; Fodor 2018, 43–45; Fodor 2019, 39.

² See more: Csák 2018, 5–16; Fodor 2013, 331; Hegyes & Varga 2020, 17; Horváth G 2013, 213–234; Olajos 2015, 17–32; Szilágyi 2021, 211–215.

³ See about the land transactions process: Alvincz 2013, 111–121; Andréka & Olajos 2017, 7–8; Anka 2015, 13–19; Bányai 2014, 62–71; Bányai 2014a, 7–33; Bányai 2016, 16–27; Bányai 2016a; Bobvos 2014, 1–25; Bobvos & Hegyes 2014; Bobvos & Hegyes 2015; Bobvos, Farkas Csamangó, Hegyes & Jani 2016, 31–40; Burgerné Gimes 2003, 819–832; Csák 2010, 20–31; Csák 2010a; Csák



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The other piece of legislation analysed is the Family Farming Act, which is 2021. The legislation in force from 1 January 2021 and considered as the third cornerstone would be the agricultural holding law, which has not yet been established by Parliament.

Of the nearly 80 sections of the Family Farms Act, only the first twenty sections of the Act are in force, and the other provisions expired after the publication. Under this law, new rules have been adopted as regards the status of pre-producers, as well as the registration of pre-producers, the family holding of pre-producers and the regulation of the family agricultural company.

After presenting the types of family economy, in this presentation, I will summarize and group the rules where the law on approved family farms affected the two most important elements of the Transaction of agricultural and forestry land rules on the Transaction of agricultural and forestry land law and the law issued for its implementation, the DTAL

The Law on Family Farms, which will enter into force in 2021, has transformed the system of agricultural enterprises.

The smallest farms in the prehistoric category could escape conversion without a change in form, faced with a concept of prehistoric producers in a different way. Ancient farmers who were involved in part-time or second-time production in the management of a full-time farm could be transformed into family farms of first-time farmers.

The family farm, as a legal category, was chosen to pursue its activities as a family farm or family farm. Business companies, cooperatives and forest owners in agriculture could also be transformed with family and agricultural companies. Under the Family Farms Act, the primary producer, the natural person in the register of the Chamber of Agriculture, who carries out his own economic activity, independently, as a member of the family of original producers, and does not exceed a quarter of his total turnover.⁴

The primary producer's family holding consists of at least two production communities established by the farmer's member, which have no assets separate from the company's assets, within the framework of which the farmers carry out their activities together in their own holding, with the personal assistance of all members, in a coordinated manner. The rules of the civil law company should be applied to the family economy of primary producers as background legislation. A farmer could only be a farmer's family farm.⁵

& Hornyák 2013, 12–17; Csák & Hornyák 2014, 10–11; Csák & Hornyák 2014a, 139–158; Csák & Nagy 2011, 541–549; Csák & Szilágyi 2013, 215–233; Csák, Kocsis & Raisz 2015, 44–55; Fodor 2010, 115–130; Gyovai & Kiss-Kondás 2016, 64–77; Gyurán 2016; Hegyes 2009, 199–207; Holló, Hornyák & Nagy 2015, 73–87; Hornyák 2014, 62–76; Hornyák Zsófia 2015, 88–97; Hornyák 2016, 131–135; Hornyák & Prugberger 2016, 47–58; Keller 2013, 191–198; Kocsis 2014, 111–127; Kocsis 2015, 241–258; Korom 2013, 11–166; Korom & Gyenei 2015, 289–306; Kozma 2012, 350–360; Kurucz 2012, 118–130; Kurucz 2015, 120–173; Nagy 2010, 187–198; Norer 2013, 367–387; Olajos 2013, 121–135; Olajos 2014, 53–55; Olajos 2015, 17–32; Olajos 2017, 284–291; Olajos & Szilágyi 2013, 101–102; Orlovits 2015; Prugberger 2012, 6–7, 62–65; Papik 2017, 132–145; Raisz 2010, 241–253; Raisz 2017, 68–74; Raisz 2017a, 434–443; Szilágyi 2015, 265–278; Szilágyi 2016, 1437–1451; Szilágyi 2017, 64–74; Szilágyi 2018, 182–196; Tanka 2013, 109–136; Téglási 2015, 148–157.

⁴ Act CXXXIII of 2020 3–5 §.

⁵ Ibid. 6–11 §.

Although the family agricultural company is registered with family agricultural companies, the company is a family, business, cooperative or forest holding company which has at least two members and is in a chain of relatives. A person may be associated with only one family agricultural company at the same time. These three socialized family farms are listed in six places in the Transaction of agricultural and forestry land Act and eleven places in the DTAL Act.⁶

2. Family Farms in Transaction of agricultural and forestry land Act.

There are six locations in the Transaction of agricultural and forestry land Act.

(1) Fourth paragraph of the Preamble, its function is to join forces, to increase local businesses between areas supported by the local land committee, which provide for the promotion of the Transaction of agricultural and forestry land of these organizers at the forefront of principle. The text of the legislation is as follows: to strengthen agricultural society through the organisation of rural family economic communities and the growth of local businesses.⁷

(2) Transaction of agricultural and forestry land Act XIII. Point (ac) of the second paragraph of Section 1. Its function shall be deemed to be used by the owner of ownership under the Transaction of agricultural and forestry land Act if the actual user of the land is a family company of which at least 25% is a shareholder.⁸

(3) Point (a) of the fourth paragraph of Section 18 of the Transaction of agricultural and forestry land Act. If you wish to exercise multiple pre-emptive rights at the same rank, the following order applies. This legal institution is called an internal pre-emptive order: First place is a member of the family agricultural company or member of an ancestral family farm.⁹

(4) Among the general rules on land use. The Transaction of agricultural and forestry land Act 38. Paragraph 3a. It is considered to be a lawful transfer of rights of use to another part of which does not require the actual contribution of the renter, the institution of the sub-lease. The legislation is based on the following: Land's right to use the lease, favour land use and lease of forest land may be transferred to a family agricultural company in which the sub-licensing party is a member, with the consent of the party originally transferring it, for the purposes of favor land use. Release shall be without prejudice to obligations vis-à-vis the original rearranger of the right to use.¹⁰

⁶ Ibid. 13–15 §.

⁷ Act CXXII of 2013 Preamble (4).

⁸ Ibid. 13. § point ac).

⁹ Ibid. 18. § (4).

¹⁰ Ibid. 38. § (3a).

(5) The Transaction of agricultural and forestry land Act 42. Section 3, second paragraph, ac. Point 1.1.2. On this basis, it shall not be considered to be its use or release if the actual user is a family agricultural company in which the member of the contract user is to be transferred to the benefit of the company by the land leased by him.¹¹

(6) The Transaction of agricultural and forestry land Act is 46. If more than one person wishes to exercise a pre-lease right at the same rank, the following order applies (internal pre-lease order): member of a family agricultural company or member of a farmer's agricultural company.¹²

2.1. Classification of Family Farms mentions in TAL

(1) A Transaction of agricultural and forestry land law, which is a substantial law, appears on a principle level, and in agriculture, the development of family communities and agricultural enterprises is used to strengthen agricultural society. This principle is referred to by the local bodies of the Chamber of Agriculture, which support the acquisition of a growing agricultural business in the authorisation procedure for this purpose.

(2) If you form a family farm company for the use of the land of a natural person in which you own at least 25% of the land, then the land use right granted to the company is considered to be your own use. This type of sub-lease to land use is not considered to be a sub-lease if sub-lease is free.

(3) In the exercise of pre-purchase and pre-lease rights, a member of the family holding of the family farming companies and producers using the family, must be preferred among several persons entitled to pre-purchase or pre-lease. This legal institution is defined as an internal pre-purchase or pre-lease order by Transaction of agricultural and forestry land law.

3. Family farms in DTAL

The DTAL Act was established. Eleven places mention family farms. 1. 29. Section 1, first paragraph, J points provides that the data contained in the register of the family agricultural company or in the register of the family holding of the original farmers are to be considered as records transferred to the management body of the agricultural holding.¹³

Second mention is 50. The fourth paragraph of Section 4. The rent shall be payable by bank transfer on a domestic postal voucher unless the landlord is a family agricultural company in which the landlord is a member.¹⁴

The third mention is the Law. 59. Section 3. The function of a natural person may terminate the lease contract with immediate effect if his or her health deteriorates to such an extent, or there is a permanent change in his family and living conditions that hinders the fulfilment or makes it significantly difficult to fulfil the obligation arising from the

¹¹ Ibid. 42. § (3) point ac).

¹² Ibid. 46. §.

¹³ Ibid. 29. § (1) point j).

¹⁴ Ibid. 50. § (4).

lease. 4. Fourth mention of the Fety. 60. Normal termination pursuant to the first paragraph of Section 1.

The lease agreement may be terminated 60 days before the end of the marketing year by the end of the marketing year by ordinary notice on the basis of the following conditions. When the lease agreement is concluded, the land which is the subject of the lease is jointly owned. During the duration of the contract, the joint ownership was terminated.

If the land corresponding to the share of the property was acquired as a result of the procedure for the termination of the common property as a separate property, provided that the landlord declares, at the same time as the termination of the contract, that the land is intended to be used by a farmer's organisation owned by himself, by a close relative, or by at least 25% of his or her close relative, or by a family agricultural company in which he is a member. And the last condition concerning the entire undivided common property was not signed by the lease agreement giving rise to the right to use one person, but its scope was extended as defined there.¹⁵

Next mention of the DTAL. 68. Section 2, concept of favor land use. On the basis of a favourite land use contract, the use and exploitation of land is transferred free of charge to its close relative under the Transaction of agricultural and forestry land Act or, in the case provided for in the Transaction of agricultural and forestry land Act, to a family and agricultural company.¹⁶

The same section, DTAL 68. section 2 In accordance with point (f) of paragraph 1 (f), the use of favors is terminated and, in the case of use to the family agricultural company, the membership of the family agricultural company, with the termination of the family agricultural company for any reason, shall cease to apply 30 day.¹⁷

Next mention is point 68/C of DTAL Act. A forestry management undertaking entitled to a forestry lease may conclude a forestry lease contract, except for the close relative of the owner of the tenants, that it is a family agricultural company in which the owner is a member.

It's a badge. 68D zakasza, as follows: Forest management integration contracts may be concluded by an appropriate forestry eligible professional undertaking, except that the integrator is a close relative of the owner or a family agricultural company in which the owner is a member.¹⁸

The DTAL 68E. the forest manager shall only be a professional enterprise included in the register of forest farmers, unless the forest manager is a close relative of the owner, or a family farming, company in which the owner is a member.¹⁹

¹⁵ Ibid. 59. § (3).

¹⁶ Ibid. 68. § (2).

¹⁷ Ibid. 68. § (2) point f).

¹⁸ Ibid. 68/C §.

¹⁹ Ibid. 68/E §.

Section 91. of the DTAL Act In the case of the designation of the order of the forced users, the farmer's partner, operator of the livestock establishment, natural person using adjacent land, within natural groups of persons who have lived locally for three years, the order of selection as a coercive user shall be the following. A. family agricultural company, point B is a member of the family farm of ancient farmers.²⁰

The DTAL. 109.. The lease agreement was concluded by Fétv until 31 December 2013. 60. In accordance with the first paragraph of Section 3, the following conditions may be terminated.

The first condition was that, at the time of the lease agreement, the land under consideration was jointly owned during the duration of the contract and that, during the duration of the contract, the common property was terminated.

The second condition is that the territory corresponding to the share of the property was acquired as a result of the procedure for the termination of the joint ownership by the new owner as a separate property, provided that he declares to the landlord, at the same time as the termination.

That he intends to use the land by means of a farmer's own close relative, a farmer's organisation owned by at least 25 percent of his or her close relative, or a family agricultural company in which he or she is a member.

In the ownership decision on the conclusion of the lease agreement, regardless of how the decision was taken, it did not participate, but is covered by it.²¹

3.1. Classification of Family Farms mentions in DTAL

This 11 point can be grouped into seven sub-sections.

(1) The registered data of the family agricultural company may be used freely by the agricultural administration. The information in the register does not need to be proved by the owners of the company if a person leases the land to his own family agricultural company.

(2) There is no need to pay the rent on a postal order or bank transfer if the rental tax is the owner and the landlord is the family agricultural company owned by him.

(3) A negative change in family circumstances after which the natural person's tenant cannot comply with the obligations arising from the lease agreement may result in the immediate termination of the lease contract. This provision, which was part of the Law on Family Farms before the entry into force of the Law, was the DTAL. However, it does not cover social enterprises, so that, with special reasons of notice, only primary producers are allowed to live among the undertakings covered by the Family Farms Act.

(4) The Law on the Implementation of the Transaction of agricultural and forestry land Act refers to the case of the division of a common land as a special, normal reason for termination, and to the whole part-owner's land, including the land of a self-property, being measured, was created by a contract of use that the owner does not sign it, but covers it. An example is the creation of a contract on the basis of service protection. In this case, the new owner may terminate the contract by the end of the marketing year with a notice period of 60 days if he wishes to use his own land, including

²⁰ Ibid. 91. §.

²¹ Ibid. 108. §.

use as own-owned agricultural company. This rule shall apply only if the original contract of use is concluded in 2014. Date of birth: 1 January 2014.

The rules for contracts concluded before the entry into force of Transaction of agricultural and forestry land legislation are simpler. In the event of the termination of joint ownership under any title, the normal grounds for termination may be invoked if the owner has not taken part in the decision necessary for the creation of the contract of use, the newly-owned owner, but has its scope, and has stated that he wishes to use the land of his own right. Self-use should also include the use of own-owned family farming enterprises. In that case, you may terminate the self-lease agreement 60 days before the end of the marketing year, with normal termination, with effect from the end of the marketing year.

(5) Next category is the concept of free land transfer to the family business. The basic condition of the contract is that the membership status of the family agricultural company ceases to exist as one of the cases of termination of the use of favors.

(6) The following discount category belongs to the special usage relationships of the forest area. The contract of most of the owners to manage their undivided joint ownership is named by the legislation in three forms. Forest management may take the form of forest leases, forest integration and forest management in a narrower sense. Forest leases are created for the use and benefit of forest areas. In the framework of forest integration, the integrator jointly manages its own and integrated forest areas and pays the integrated owners an allowance corresponding to the amount of forest benefits acquired in that year. The forest manager collects forest benefits in the name and for the benefit of the owner, for his own forest management activities. This is a business activity. For each of these three forms, it is stipulated that forest management is a specialised forest management undertaking.

The forest users are exempted from this qualification requirement and their owners are managed by forest ownership.

(7) If the owner or land user does not comply with statements made as terms of acquisition of ownership or land use. (Furthermore, he loses his status as a farmer, he makes the land work with someone else. Within a period of five years, it withdraws the land from cultivation, a final land use charge is due,) and it does not comply with the request made by the agricultural administration and body, and then payment of a fine, the determining agricultural administration may designate a compulsory user to receive land recovery. Forced recovery is for an entire marketing year and forced use as a farmer who uses the land may exercise a pre-lease right. In order to designate a coercive asset, the agricultural administration shall follow a designation order. Within the order, a large number of rightholders may justify an internal selection order. A large number of persons may be entitled to landowners, livestock keepers, natural persons using adjacent land, natural persons who have lived locally for three years. The first two places in the internal recovery order are the member of the family agricultural undertaking and the member of the agricultural undertaking of the farmer.

4. Conclusion

Prior to the adoption of the Act on Family Farms, only a few jurists explored the relationship between the Act on Transactions in Agricultural and Forestry Land and the Cardinal Act on Family Farms and the influence they had on each other.²² Unfortunately, with the adoption of the Act on Family Farms, the Ministry of Agriculture used a special legal solution to harmonize the rules in the two areas.

The concept of an agricultural producer organization, which had previously been included in the terms of the Act on Transactions in Agricultural and Forestry Land, was replaced by one of the following terms in the Family Farms Act: a primary producer, a family farm of a primary producer, or a family farming enterprise.

The conceptual components of an agricultural producer organization are: legal personality, adequate organization, 3 years of agricultural or ancillary activity, agricultural share of more than 50% in income, 3 years' experience as a farm manager or agricultural qualification.²³

The concept does not include any belonging to family farming or belonging to a family. Because the definitions of the two Acts greatly differ, many organizations may lose their special status as their existing contracts expire.

The change in the Act on the Transaction of Agricultural and Forestry Land's provisions will become prominent for a significant part of agricultural producer organizations after their current contracts expire. In many of their cases the difficulty of establishing a family character raises the issue that the regulation itself infringes acquired rights.

²² Kurucz 2012, 118–132.

²³ Concept of agricultural producer organization. Nemzeti Földügyi Központ 2022.

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