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Agricultural Cooperatives as a Determining Form of Agricultural Enterprise

ABSTRACT

Cooperatives are widespread in agriculture and in certain branches of agriculture cooperatives are popular. Agricultural cooperative is considered to be a crucial and globally efficient business model in agriculture and agri-food industry, as well as in rural development in the 21st century. As a type of cooperative, it has special features and operates according to particular principles. Agricultural cooperatives provide significant economic achievements and besides economic advantages, they may also offer several further benefits of different nature to their members. The regulation of the countries concerning agricultural cooperatives have smaller – bigger differences. Some law systems like the Hungarian determine special provisions for agricultural cooperatives. In Hungary the Act X of 2006 on ‘cooperatives’ involves specific rules for agricultural cooperative under the title ‘Agro-economic cooperative’.

KEYWORDS: agricultural cooperative, complex goals, economic achievements, social advantages, special provisions, Act X of 2006 on cooperatives, agro-economic cooperative

I. INTRODUCTION

International documents and documents published by certain institutions of the European Union have the same point of view, according to which cooperatives are considered to be a crucial and irreplaceable organisation of agriculture and the agri-food industry, as well as of rural development in the 21st century.¹ One of the reasons for this lies in the fact that the cooperative form, which is traditionally an institution involving

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¹ See e.g.: Food and Agricultural Organization of the United Nations (hereinafter: FAO): Agricultural Cooperatives – Key to Feeding the World, 2012 World Food Day, Celebration Report, <http://www.fao.org/docrep/017/i3191e/i3191e00.pdf> (Last accessed: 31 December 2018); Concerning Europe, a document with a similar content is e.g.: European Economic and Social Committee: *Cooperatives and agri-food development*, EESC Opinion, 11th July 2012, Brussels, NAT/541.

small and medium market participants,² may align its function to the contemporary demands being placed on agriculture, food production and food processing, as well as on rural development in an efficient and flexible way.³ One of these demands involves the ensuring agricultural sustainability.⁴ It includes especially promoting a food supply of an appropriate quantity and quality, besides preserving the ecosystems along with their recovery; increasing food security; setting up proper farming conditions for rural small-scale producers providing the opportunity for farmers to acquire innovative and developed technologies and increasing their competitive skills as well as promoting employment in the rural areas.⁵

² See the history of cooperatives: Kunecz Ö., A Rochdale-i elvek és a szövetkezet jogi fogalmának körülírása, in *Küzdelem a gazdasági jogért*, Vol. II. (Királyi Magyar Egyetemi Nyomda, Budapest, 1941) 414–415, 442.; Czettler J. and Ihrig K., *Szövetkezeti ismeretek*, (Patria Irodalmi Vállalat és Nyomdai Részvénytársaság, Budapest, 1926) especially 6.; Réti M., *Szövetkezeti jog*, Egyetemi jegyzet, (ELTE Eötvös Kiadó, Budapest, 2010) 22–39.; Réti M., Az európai szövetkezeti szabályozás fejlődéstörténetéről, (2012) 33 (1–2) *Szövetkezés*, 9–33. The essay is available in on the homepage of the Research Institute for Cooperatives: <http://www.szovetkezetiututato.hu/kozlesre.php> (Last accessed: 31 December 2018); Domé Györgyné and Réti M., *Szövetkezeti jog*, (ELTE ÁJK, Budapest, 1999); J. Birchall, *Rediscovering the cooperative advantage, Poverty reduction through self-help*, (Cooperative Branch, International Labour Office, Genf, 2003) especially 5–6.; Prugberger T., Az európai szövetkezetekről szóló rendelet a magyar szabályozás és a nyugat-európai szövetkezeti jogi szabályozás tükrében, (2003) (11) *Jogtudományi Közlemény*, 460–470.

³ See e.g.: E. McNerney (FAO Officer), *Cooperatives key to achieving sustainable agricultural development*, <http://www.un.org/esa/socdev/documents/2014/coopsegm/McNerney.pdf> (Last accessed: 31 December 2018); B. Manzano Lepe, *The Role of Agriculture Cooperatives and Farmer Organizations on the Sustainable Agricultural Practices Adoption in Uganda*, (Universiteit Gent, Gent, 2016), https://lib.ugent.be/fulltxt/RUG01/002/305/220/RUG01-002305220_2016_0001_AC.pdf (Last accessed: 31 December 2018); P. Burjorjee, Y. Nelis and B. Roth, *Land cooperatives as a model for sustainable agriculture: A case study in Germany*, (Blekinge Institute of Technology, Karlskrona, 2017), <http://www.diva-portal.org/smash/get/diva2:1111078/FULLTEXT02> (Last accessed: 31 December 2018).

⁴ See the interpretation of the definition of sustainable agriculture: Valkó G., *A fenntartható mezőgazdaság indikátorrendszerének kialakítása az Európai Unió tagországaira vonatkozóan*, (Központi Statisztikai Hivatal, Budapest, 2017) 46–48.

⁵ See: General Assembly of the United Nations (hereinafter: UN), *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, 21th October 2015, <https://sustainabledevelopment.un.org/post2015/transformingourworld> (Last accessed: 31 December 2018); UN, *Agenda 21, Chapter 14, Promoting Sustainable Agriculture And Rural Development*, United Nations Conference on Environment & Development, Rio de Janeiro, Brazil, 3 to 14 June 1992, <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> (Last accessed: 31 December 2018). The rules of the second pillar of Common Agricultural Policy, the so-called rural development policy harmonise with the point of view of the relating international documents. The Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on ‘support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005’ provides the guiding rules. It is worth mentioning Section (4) of the Preamble of the Regulation which contains the following: ‘(4) To ensure the sustainable development of rural areas, it is necessary to focus on a limited number of core priorities relating to knowledge transfer and innovation in agriculture, forestry and rural areas, to farm viability, to the competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests, to the organisation of the food chain, including the processing and marketing of agricultural

This essay introduces some data in connection with agricultural cooperatives in order to give a clear picture about the importance of this form of entrepreneurship in agriculture and to demonstrate their role in the agricultural sector. Moreover, the analysis shows the operative features and regulatory characteristics of agricultural cooperatives which, on one hand make this entrepreneurship unique and, on the other hand, guarantee their success.

II. THE ECONOMIC RESULTS OF AGRICULTURAL COOPERATIVES

the role of cooperatives in agriculture is important, their results are outstanding. According to the data issued in 2016 by the International Cooperative Alliance and the European Research Institute on Cooperative and Social Enterprises, *from the aspect of turnover, 32% of the top 300 cooperatives worldwide are in the fields of agriculture and food industry.*⁶ In our opinion, this proportion is extremely high and demonstrates that cooperatives seem to be globally efficient in agriculture and the food industry.

Considering the European region, the data concerning this topic issued by the Cooperatives Europe with its headquarters in Brussels⁷ and the General Committee for Agricultural Cooperation in the European Union⁸ (shortly, hereinafter: COGECA) should be highlighted. According to the research by Cooperatives Europe in 2015, more than 50,000 cooperatives operate in agriculture, which have more than 9.5 million

products, to animal welfare, to risk management in agriculture, restoring, preserving and enhancing ecosystems that are related to agriculture and forestry, to the promotion of resource efficiency and the shift towards a low carbon economy in the agricultural, food and forestry sectors, and to promoting social inclusion, poverty reduction in and the economic development of rural areas.' <http://eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:32013R1305&from=HU> (Last accessed: 31 December 2018). See the Common Agricultural Policy of EU: Halmi, P., *Közös agrárpolitika*, in Kende T. and Szűcs T., *Az Európai Unió politikái*, (Osiris, Budapest, 2001); Réti M., *Az agrárpiac szervezésének, szabályozásának jogi eszközei az Európai Unióban*, in Domé Gy., Vass J., Hársfalvi R., Kurucz M., Réti M. and Vass J., *Agrárjog*, (ELTE ÁJK, Budapest, 1999) 194–234.; M. Réti and K. Bak, *The Common Agricultural Policy with and without the United Kingdom – CAP Brexit*, (2016) (1) *Elte Law Journal*, 163–182.

⁶ International Cooperative Alliance, European Research Institute on Cooperatives and Social Enterprises, *World Co-operative Monitor, Exploring the Co-operative Economy*, 2016 Report, http://old.ica.coop/sites/default/files/WCM_2016.pdf?_ga=1.211645532.853113102.1428575261 (Last accessed: 31 December 2018) 7.

⁷ The organization represents cooperatives and protects their interests in Europe. It has 141 million individual members, who are owners of 176,000 cooperative enterprises. The homepage of the organization: <https://coopseurope.coop/about-us> (Last accessed: 31 December 2018).

⁸ According to data published by the organization, it represents 22,000 agricultural cooperatives in Europe. The homepage of the organization: <http://www.copa-cogeca.be/Menu.aspx> (last accessed: 31 December 2018).

members.⁹ Concerning the survey issued in 2010 by COGECA the market shares of agricultural cooperatives in the European Union was approximately 60% from the aspect of processing and marketing agricultural products and 50% concerning supply.¹⁰ The third most important document was also issued by COGECA with the title of 'Development of Agricultural Cooperatives in the EU 2014'¹¹ in 2015. Besides other data, this document includes the number and the definition of agricultural cooperatives operating in Europe and the number of their members, as well as the trends reflected by the statistics presented in the surveys regarding previous data. One of the values of this document is that it conveys independent data concerning certain European countries. Among the data in this document are the results of the turnover of the agricultural cooperatives which belong to the top 100 according to their economic achievements for 2011–2013. As the data show, the top 100 European agricultural cooperatives altogether had a turnover of EUR 187,846 million in 2011, while it was EUR 223,358 million in 2013.¹² Another valuable finding on the basis of this survey is that 50% of French farmers are members of a CUMA (*Coopératives d'Utilisation du Matériel Agricole*) which is a special type of cooperative in France.¹³ Denmark is also worth mentioning in the European context. In Denmark, 28 cooperatives operate with 45,710 members in agriculture according to the data in 2015.¹⁴ By considering the two figures regarding the Danish agricultural cooperative system we may come to the conclusion that cooperatives in Denmark are organised with the participation of more members. Most entrepreneurs in agriculture are cooperatives.¹⁵ Denmark is also worth mentioning from the aspect that cooperatives seem to have been an extremely successful and efficient organisational framework regarding certain strategic branches of agriculture, such as the dairy industry, since the first third of the 20th century.¹⁶

⁹ Cooperatives Europe, *The Power of Cooperation – Cooperatives Europe key figures*, (Cooperatives Europe, Brussels, 2015), <https://coopseurope.coop/sites/default/files/The%20power%20of%20Cooperation%20-%20Cooperatives%20Europe%20key%20statistics%202015.pdf> (Last accessed: 31 December 2018) 19.

¹⁰ COGECA, *Agricultural Cooperatives in Europe*, (Brussels, 15th September 2010), <https://www.agro-alimentarias.coop/ficheros/doc/03020.pdf> (Last accessed: 31 December 2018) 18.

¹¹ COGECA, *Development of Agricultural Cooperatives in the EU 2014*, (Brussels, 5th February 2015), http://agricultura.gencat.cat/web/.content/de_departament/de02_estadistiques_observatori/27_butlletins/02_butlletins_nd/documents_nd/fitxers_estatics_nd/2015/0165_2015_IA_Cooperatives_Cooperatives-UE.pdf (Last accessed: 31 December 2018).

¹² See the data: COGECA, *Development of Agricultural Cooperatives in the EU 2014*, 24–27.

¹³ Filippi, M., *Support for Farmers' Cooperatives; Country Report France*, Wageningen: Wageningen UR., 2002, <https://edepot.wur.nl/244795> (Last accessed: 31 December 2018) 15.

¹⁴ Cooperatives Europe, *The Power of Cooperation – Cooperatives Europe key figure*, 56.

¹⁵ Danish Agriculture and Food Council, *Facts and Figures – Denmark – A Food and Farming Country*, (September 2016), <https://agricultureandfood.dk/~media/lf/tal-og-analyser/fakta-om-erhvervet/facts-and-figures/facts-and-figures-2016/facts-and-figures-rev2.pdf> (Last accessed: 31 December 2018).

¹⁶ Dairy cooperatives have a long history in Denmark. In the middle of the 1930's, 92% of milk producers were organized in cooperatives, producing 84% of dairy products, 90% of export-butter and 87% of

FAO data can be highlighted concerning regions beyond Europe. According to it, cooperatives produce 37.2% of GDP in agriculture in Brazil.¹⁷ Considering the current data, 12 million farmers provide dairy cooperatives with 16.5 million litres of milk on a daily basis in India.¹⁸ In Armenia, there is a labour shortage in agriculture. Data from 2011 record that 118 cooperatives out of all 239 registered in the country operate in farming and/or food production.¹⁹

We may come to two significant conclusions from the above data. We can see that a great number of cooperatives nowadays operate in the field of agriculture worldwide. *Cooperatives are widespread in agriculture and in certain branches of agriculture cooperatives are popular.*²⁰ It is also important to conclude that *cooperatives may be considered to be successful and efficient, concerning the findings of the surveys. Cooperatives are able to provide significant economic achievements for their members.*²¹

III. THE FEATURES OF AGRICULTURAL COOPERATIVES

the success of agricultural cooperatives supported by the previously shown economic data may be concluded from the fact that *agricultural cooperatives as a type of cooperatives have a unique legal nature and special operating features and principles. These operating features and principles characterise cooperatives in general.* As cooperative traditions date back to the 19th century, these operating principles have been tried, justified by

meats were related to cooperatives. See the data: Habsburg E., *A magyar tanyavilág*, (Szent-István Társulat, Budapest, 1938) 207.

¹⁷ FAO, *Agricultural cooperatives are key to reducing hunger and poverty*, <http://www.fao.org/news/story/en/item/93816/icode/> (Last accessed: 31 December 2018).

¹⁸ See the data: <http://www.amul.com/m/about-us> (Last accessed: 31 December 2018).

¹⁹ S. Movsisyan, *The Role of Cooperatives in the development of Agriculture in Armenia, Asian Countries & EU (Worldwide case studies)*, (Research Paper, Institute for Cultural Diplomacy, Berlin, 2013).

²⁰ It is worth highlighting that cooperation has a long tradition in agriculture. In this field the appearance of cooperatives dates back to ancient times and the Middle Ages, when the everyday life and farming required mutual collaboration. However, it is important that cooperatives operating against natural disasters developed self-organizationally beside cooperatives mentioned above, e.g. cooperatives for afforestation against rock-falls. From a historical aspect, it is relevant to mention that a conscious cooperation wave took place in the rural areas of Europe as well as in the USA. We highlight from the analyses of the history of agricultural cooperatives: Czettler and Ihrig, *Szövetkezeti ismeretek; Réti, Az európai szövetkezeti szabályozás fejlődéstörténetéről*, 11–17.; J. Birchall, *The international co-operative movement*, (Manchester University Press, Manchester and New York, 1997). See the relating data concerning the USA: J. Birchall and L. Hammond Ketilson, *Resilience of the Cooperative Business Model in Times of Crisis*, (International Labour Organization, Geneva, 2009), https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_108416.pdf (Last accessed: 31 December 2018) 5.

²¹ A similar conclusion can be found in: Szeremley B., *Exportorientált értékesítő szövetkezetek létesítése az élelmiszer-gazdaságban*, (1994) 15 (1–2) *Szövetkezés*, 41.

practice and are of long standing.²² These operating features ensure a kind of balance for the cooperative members and they also mean a long-term operating opportunity at the same time.

It is important to highlight the special operation of cooperatives, which is member-centred. All of the cooperative members have the opportunity to take advantage of the cooperative for their own individual purposes. Another important feature of cooperative is that *the members are obliged to contribute personally to the operation of the cooperative.* The main role of the members is to participate in an active way. *The members of a cooperative primarily benefit from the profit of a cooperative according to the proportion of their personal contribution.*²³

Furthermore, it is also an important feature that *the members of cooperatives*, who are the owners and the users of the cooperative at the same time, *mutually collaborate with each other* with special concern for harmonising their activities. It is clear from the nature of the cooperative form that *the members of an agricultural cooperative may benefit due to its size and the relations in the commercial market.* This advantage may be realized in the case of an agricultural cooperative by the fact that the members of the cooperative, i. e. the farmers, may be in a better position to make a bargain in the market than individually. In the agriculture another advantage, which also traces back the economies of scale of cooperatives, is that cooperatives may be able to operate more cost-effectively than the member individually.²⁴ Cooperatives have open membership. It means that the number of cooperative members is not limited so they can have a lot of members. The members can be stronger in the market together than alone. A cost-effective operation is ensured for the cooperative also by the fact that *it does not need a mediator in the process of the activity in the market*, because the members, who are the users and the owners at the cooperative at the same time, deal with traditional mediatory tasks, too.²⁵ An additional economic advantage of agricultural cooperatives

²² The International Cooperative Alliance has defined the international cooperative principles as guidelines since the first third of the 20th century. These principles signify the unique operating principles of cooperatives. According to the organization, 'real' cooperatives function along these principles. Those currently in force were accepted in September 1995, their last revision happened at the global congress in Turkey in 2015. The international cooperative principles in force are: 'Voluntary and open membership', 'Democratic member control', 'Member's Economic Participation', 'Autonomy and Independence', 'Education, Training and Information', 'Cooperation among cooperatives', 'Concern for Community'.

²³ See: Réti, *Szövetkezeti jog*, 31–32.

²⁴ See: G. L. H. Svendsen and G. T. Svendsen, Measuring Social Capital: The Danish Co-operative Dairy Movement, (2000) 40 (1) *Sociologia Ruralis*, (72–86) 72–73., https://www.researchgate.net/publication/227698290_Measuring_Social_Capital_The_Danish_Co-Operative_Dairy_Movement (Last accessed: 31 December 2018) <https://doi.org/10.1111/1467-9523.00132>

²⁵ Réti, *Szövetkezeti jog*, especially 31–32.

is that it may be able to regulate the prices at the market if the particular cooperative is considered as a significant participant at the competitive market.²⁶

In this context, it is worth mentioning that, since the end of the 19th century *the agricultural, food industrial and consumer cooperatives* have been racionalizing their activity in order to achieve a more effective and fruitful operation so that cooperative network, as well as cooperative systems coordinated by cooperative centres could be established. Concerning their rural cooperatives, these centres take an extremely useful coordinating and logistic function²⁷ and are able to hold the agricultural, purchasing and consumer cooperatives together in the countryside. These kinds of centres were established in such countries as Germany and Denmark²⁸ at the beginning of the 20th century, but we may not forget about the so called 'Hangya' cooperative centre in Hungary.

Referring to the issue above, it is necessary to draw attention to another essential factor, that besides cooperatives organised for farming the same crops, several other types of cooperatives are present in the agricultural and food industries. As we have explained before concerning the manufacture of food products it as advantageous for the members to get the essential ingredients and devices for farming, to use the agricultural machines and to make process together. As we have also highlighted, the common cultivation and marketing ensure a more beneficial and cost-efficient marketing position for selling the products. In such way the purchasing cooperatives, sales cooperatives, cooperatives for controlling animals, dairy cooperatives, machine cooperatives as well as the consumer cooperatives, which take a role in distributing products to the consumers, have been present for a long time. Recently, a new type of cooperative, so-called agricultural marketing cooperatives have appeared. These cooperatives provide marketing activities to be more successful in the market.

We also have to point out that, besides economic advantages, agricultural cooperatives may offer several further benefits of different nature to their members. These advantages trace back to the complex goals of the cooperative. Another unique feature of a cooperative is that it tends to provide its members with cultural, educational, and social advantages, too. *They may seem be the appropriate organisational frame to supply opportunities for education, training and further studies which may improve the member's professional, theoretical and practical knowledge as well as support their promotion because cooperatives exist and operate member-centred.* 'Hangya' system from

²⁶ The Hungarian 'Hangya' cooperative model which was established at the end of the 19th and operated until the end of the Second World War serves as an example. One of its goals was to regulate the market price in the countryside. See: Termelő-Értékesítő és Fogyasztási Szövetkezet, A Magyar Gazdaszövetség Szövetkezeti Központja, *A „Hangya” Termelő-Értékesítő és Fogyasztási Szövetkezet, a Magyar Gazdaszövetség Szövetkezeti Központja Első 25 éve*, (Hangya Házinyomda, Budapest, 1923) 23.

²⁷ Habsburg, *A magyar tanyavilág*, 51., fn. 16.

²⁸ Ibid.

the beginning of the 20th century may serve a good example for it, because its activity in the countryside was significant in the field of education for the members. ‘Hangya’ network published e.g. a nationally widespread quality paper to inform the Hungarian farmers about the latest Western-European agricultural procedures.²⁹

In connection with agricultural cooperatives, it is important to mention that they are able to *take a significant role in employment of the rural people by ensuring an opportunity to stay in the countryside.*

Last but not least, it is also a feature of agricultural cooperatives that, in general, they *pay particular attention to the criteria of environment conservation, health care and innovative solutions.* The professional analysis matches the practical experience from the aspect that agricultural cooperatives are pioneers in bio farming and they serve as a good example of how to apply environmentally friendly farming methods.

IV. THE REGULATION OF AGRICULTURAL COOPERATIVES

1. Regulatory models in general

In the context of the analysing of regulations concerning cooperatives, we may lay down that the regulatory solutions of certain countries have smaller – bigger differences. Naturally, these differences may be originated in their specific law systems, societies, and economies.

Nowadays several countries lay out sui generis acts concerning the cooperative form, regardless of their specific economic activity. It means that the cooperative law material generally deals with the rules of establishment, operation and cessation of cooperatives concerning all or almost all the cooperative types independently from the goal and function of the cooperative. The German,³⁰ Austrian,³¹ Finnish³² cooperative laws may serve as good examples of this regulatory method. Furthermore,

²⁹ Ibid.

³⁰ „Gesetz betreffend die Erwerbs- und Wirtschaftsgenossenschaften”; The date of entry into force of the German Act on cooperatives: 1st May 1889. The Act is available on the internet in German: <https://www.gesetze-im-internet.de/geng/BJNR000550889.html> (Last accessed: 31 December 2018).

³¹ „Gesetz vom 9. April 1873, über Erwerbs- und Wirthschaftsgenossenschaften”; The Austrian Act is available on the internet in German: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001680> (Last accessed: 31 December 2018).

³² The new cooperative Act, namely the Act on cooperatives Nr. 421/2013 (*Osuuskuntalaki*) entered into force in Finland in 1st January 2014. The Act is available on the internet in Finnish: <https://www.finlex.fi/fi/laki/alkup/2013/20130421> (Last accessed: 31 December 2018).

the Portuguese³³ regulation follows their regulatory approach, too. However, several law systems determine special provisions for certain cooperative types, such as agricultural cooperatives. The French and Hungarian³⁴ cooperative law may fall under the last group.

2. Portuguese Cooperative Regulation

It is worth highlighting the Portuguese act on cooperatives (Lei n.º 119/2015, de 31 de Agosto *Código Cooperativo*) because it should be considered as a pattern for the Hungarian lawmaker from some aspects. On one hand, the Portuguese Act on cooperatives may be suggested to be followed because Article 4 of the act enumerates the branches of the cooperative sector. According to the act, the cooperative sector consists of 12 different branches. The Article 4, Section 1, point c) denominates ‘agriculture’ (*Agrícola*). It clearly turns out from the act that, actually, cooperatives appear an amazingly wide scale in the economy.

Last but not least, concerning Portuguese cooperative law, we shall refer to the fact that the Portuguese regulations ensures a constitutional basis for cooperatives.³⁵ Article 61 of the Constitution of the Portuguese Republic (*Constituição República Portuguesa*) lays down the opportunity to found cooperatives for all. Besides the opportunity for establishing cooperatives, the constitution, namely Article 85, Section (2), also declares that the state may ensure fiscal and financial benefits as well as technical support for cooperatives. Hence, the operation of this entrepreneurship is supported by the Portuguese law at the level of the constitution.³⁶ Regarding cooperatives, another particularly valuable element of the Portuguese constitution is that it guarantees to establish cooperative schools as part of the educational system.³⁷ Taking the Portuguese regulation into account as a model, it may be worth being considered by the Hungarian lawmaker to ensure a constitutional basis for the cooperative sector.

³³ Lei n.º 119/2015, de 31 de Agosto *Código Cooperativo*. The Portuguese Act is available on the internet in Portuguese: <https://dre.pt/dre/legislacao-consolidada/lei/2015-70147380> (Last accessed: 31 December 2018).

³⁴ Act X of 2006 on cooperatives ‘II. Special Types of Cooperatives’, ‘2. School cooperatives’, ‘3. Social cooperatives’. The Act is available on the internet: https://net.jogtar.hu/jogszabaly?docid=A0600010_TV (Last accessed: 31 December 2018).

³⁵ See a valuable work on the analysis of the constitutional basis of cooperatives: Réti M., A szövetkezeti forma jelentőségéről az uniós jogban, aktuális nemzetközi tendenciáiról, alkotmányjogi alapok az európai jogrendszerek szövetkezeti jogában, in *Ünnepi tanulmányok Prugberger Tamás professor emeritus 80. születésnapjára, Miskolci Jogi Szemle*, (2017) Special Volume 12 (2) 479–492.

³⁶ Trócsányi L. and Badó A. (szerk.), *Nemzeti alkotmányok az Európai Unióban*, (KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., Budapest, 2005). The Portuguese Constitution is available in Portuguese language: <http://www.parlamento.pt/Legislacao/Paginas/ConstituicaoRepublicaPortuguesa.aspx> (Last accessed: 31 December 2018).

³⁷ Portuguese Constitution Article 43, Section (3).

3. French Cooperative Regulation; Definition in the French Act on Cooperatives

The regulatory method of the French law concerning agricultural cooperatives may be considered as a pattern, because it determines cooperative by establishing their economic benefits mentioned above as a starting point in its definition.

In France, agriculture is considered as a particular branch of the economy in which the role of agricultural cooperatives is significant – as the previous results of cooperatives have already shown it. In light of these, the Act of 10 September 1947 on '*cooperatives*'³⁸ essentially reflects the typical economic features of cooperatives. The French cooperative act defines cooperative as:

companies, the primary purposes of which are: 1. To reduce, for the benefit of their members and through the joint effort of said members, the cost price and, where applicable, the sale price of certain products or certain services, by performing the functions of the entrepreneurs or intermediaries whose remuneration would increase said cost price; 2. To improve the merchantable quality of the products supplied to their members or of those products produced by said members and delivered to consumers; 3. And, in general, to contribute to the satisfaction of their members' needs, the promotion of their members' economic and social activities and the training of their members. Cooperatives may be active in all areas of human activity.³⁹

The definition of the French cooperative act clearly reflects the already mentioned characteristics of cooperatives. The definition includes that cooperatives provide the economic interest of the members along with giving a chance for their own development and training. It is also worth highlighting from the elements of the definition that cooperatives play a significant role in all branches of human activity, and they are able to provide these activities. The French regulation harmonizes with the Portuguese law in its regulatory point of view because it also lays down that cooperatives do a variegation of activities.

In connection with French cooperative law it shall be pointed out that regulation has been introduced gradually. Besides the Act of 10th September 1947 on '*cooperatives*', which includes the general rules concerning legal relationships of cooperatives, an individual act was made for agricultural cooperatives. The Act of 17th June 1972 on agricultural production cooperatives includes the special rules concerning

³⁸ „Loi n° 47-1775 du 10 septembre 1947 portant statut de la coopération”, the Act was published in the *Official Gazette* of 11th September, 1947. The Act on Cooperative is available on the internet: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000684004> (Last accessed: 31 December 2018).

³⁹ See in English: http://www.juricoop.coop/juricoop/iso_album/loi_10_09_1947-version_anglaise.pdf (Last accessed: 31 December 2018).

this cooperative type. Regarding its regulation, it is worth highlighting that if the content of the rules of this branch does not match the content of the provisions included in the general cooperative law, the rules of the special law shall be applied to agricultural cooperatives.⁴⁰

4. The Current Hungarian Regulation of Agricultural Cooperatives

a) The Structure of the Regulation on Agricultural Cooperatives

Similarly, to the French regulation, the Hungarian regulation relating to agricultural cooperatives has also been introduced gradually. The Act X of 2006 on ‘cooperatives’⁴¹ established special rules concerning agricultural cooperatives under the title ‘Agro-economic cooperative’ since which came the introduction of Act V of 2013 on the ‘Civil Code’ (hereinafter: CC).

The rules the Third Book, namely ‘Legal Persons’; specifically sections 3:325–3:367, establish the general rules relating to cooperatives. In addition to it, Act X of 2006 on ‘cooperatives’⁴² (hereinafter: Coop Act) includes general rules concerning cooperatives in Chapter I under the title ‘Provisions related to Civil Code’. More specific rules for agricultural cooperatives are involved in Point 4 of Chapter II under the title ‘Agro-Economic Cooperative’.

b) The Definition of Agro-Economic Cooperative

The current definition of agro-economic cooperative originates in Section 3:325. of the Civil Code. Based on and matching it at the same time, the Coop Act thus defines an agro-economic cooperative:

§ 22 (1) An agro-economic cooperative is a cooperative operating in the agricultural, forestry and food sectors, providing support services and engaged in main activities, such as:

a) services and activities designed to enhance the operations of its members relating to their primary agricultural production and farming, and to placing their products on the market, including:

⁴⁰ See the regulation of French agricultural cooperatives: Prugberger T., A kereskedelmi szövetkezetek szerepe a közép-kelet-európai térségben, (1994) 14 (1–2) *Szövetkezés*, (21–39) 30–31. fn. 29.; see the history and operation of French agricultural cooperatives: Dávid Cs., *Szövetkezés a francia élelmiszer-gazdaságban*, (1998) 19 (1) *Szövetkezés*, 120–136.

⁴¹ It was modified by the Act CCLII of 2013, § 181, Subsection (1).

⁴² We note that the comprehensive amendment of Act X of 2006 on cooperatives has brought significant changes in the regulation. The Act was modified by Section 18(11) of Act CCLII of 2013 on the amendment of certain acts.

- aa) the joint purchasing of materials and equipment for production, and making arrangements for the joint commercialization of production,
- ab) storage and processing of production,
- ac) mechanized services provided for production, and for processing;
- b) farming and agricultural production using the agricultural and forestry land of its members and others.

The definition of the Coop Act is worth mentioning from both its theoretical and practical aspects because the concept represents the activities carried out in agriculture, silviculture and in another independent branch, namely food industry, which is strongly linked with agriculture. In brief, it means that the definition of agro-economic cooperative was elaborated focusing on the Hungarian agriculture as a whole. The main activities carried out by agro-economic cooperatives may be divided into two big groups, on one hand, providing certain services and carrying out certain activities which support the member's economies belong to one of these main activities and, on the other hand, the other main activity belongs to production.

According to the first case, the agro-economic cooperative provides its members with some kind of services, or it carries out certain sub-activities in connection with agriculture, such as purchasing ingredients, processing products or storage. In this case, the supplementary role of cooperatives concerning their members' business activity stands out. In this field, the exact purpose of the cooperative is to carry out activities which can hardly or not at all be achieved by the members on their own. Moreover, in order to promote efficiency, it shall present itself in a supplementary way in the economy of the cooperative members. The Coop Act Section 22(4) establishes correctly that this agro-economic cooperative subtype *'shall not seek to make a profit in their contracts concluded with their members.'*

The other subtype is represented by the agro-economic cooperative, which carries out productive activity. These agro-economic cooperatives carry out productive activities by making use of the land of their members or a third person.

c) The Special Rules concerning Agro-economic Cooperatives

Regarding agricultural cooperative, Section 4 of the Coop Act establishes special rules for a unique legal institution, an operating fund, as well as for the exclusion of a member.

Concerning the rules of operational funds, Section 22(3) of the Coop Act includes the following: 'The statutes of an agro-economic cooperative shall provide for the setting up of an operational fund for starting up operations and shall lay down the rules for the appropriation of the operational fund.' According to the law it means that agricultural cooperatives shall establish an operative fund and its subregulation in its statutes. The goal of this provision may refer to the fact that an agricultural cooperative shall possess a certain amount of fortune to be able to ensure the stability of

its operation. However, the lack of the regulation concerning the goal, the legal nature and title of use of operative fund may cause some difficulties from the aspect of the application of the law.

Concerning the exclusion of a member, the Coop Act establishes the following special rules of agricultural cooperatives:

§ 24 (1) Serious harm to the interest of an agro-economic cooperative shall include the case where any action or negligence of a member, serving grounds for bringing action for the exclusion of such member, prevents or poses a serious threat to prevent the agro-economic cooperative to access assistance co-financed by the European Union or the central budget. (2) Where the exclusion of a member is initiated under Subsection (1), the court shall rule on the suspension of membership rights of such member in priority proceedings.

V. SUMMARY

This analysis points out the significant role of agricultural cooperatives for small and medium producers due to their unique features. We also found it important to represent that rules on agricultural cooperatives match their geographical, social and economic conditions. We wish that this work may support the further development of Hungarian cooperative law concerning agricultural cooperatives.