

SOME LEGAL ASPECTS OF AGRI-ENVIRONMENTAL EFFORTS IN THE COMMON AGRICULTURAL POLICY

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Resume

The legal aspect of agri-environmental protection, the agri-environmental law forms a point of contact between agrarian law and environmental law convert them into „Siamese twins”. It’s naming gives true expression to it’s borderland nature.

The first steps of the transformation of the environment can be bound to the agriculture, livestock production and cultivation of the land. The interaction of the society and nature became objectified, the so called noosphere¹, the area conquered by the determinate human activity, has been growing since the beginning mostly due to the increase of the agricultural activity, one of the most important sectors of the economy these days, too.

In an economic sense agri-environmental protection – as well as the legal aspect of it – as an obstacle of the agricultural economic activity takes aim at holding back the endeavours displaying the economic interests.

The environmental action programs advertised the importance of the integration continuously, but the actual enforcement of the environmental requirements is put into practice when the CAP has to confront the „economic compulsion”, for example with the steadily growing overproduction. Easily reasonable, that the agricultural economy was

¹ CSEMEZ ATTILA, MÓCSÉNYI MIHÁLY: Egyedi tájértékek jelentősége a rurál táj fejlesztésében, In.: Természetvédelem és mezőgazdaság, Bp., MTA, 1999., p. 103

assigned by the environmental action programs to be the first area where the necessity of introducing the integration of the environmental requirements comes on the scene².

For the legal aspect of the environment protection, as a „cross-lying” area of law and for the horizontal natured environment politics have to prevail spectacularly inside other law branches and in politics, too. This is a „sine qua non” of its efficiency.

The agri-environmental law and the collection of programs that encourage improved conservation and environmental performance in agriculture, the so called agri-environmental policy of the EC (EU), which took shape in a narrow, one and a half decade before the turn of the millennium is the experiment of the achievement of sustainability in the agricultural sector. The challenge of sustainable development requests building the environmental interests into all politics of the Union, and their efficient enforcement inside them. The „integration-principle” of environmental law is the connecting link between sustainability and agri-environmental efforts.

Agri-environmental protection is practically doing the best endeavours to soften the growing environmental damages of agricultural land and all of the environmental elements in connection with it, pursuing agricultural activities in the highest sense of the principles of precaution, prevention and restitution. This special field of environmental protection is incarnated in the harmonisation of the agricultural policy and the environmental policy.

Trying the briefest definition of agri-environmental law we can ascertain that it is the entirety of the norms of environmental law being against the environmental pollution of the agriculture. In a wide sense it contains the rules of the general part of environmental law (horizontal division, weaving in all special fields of it) and the ones of the special part (with a vertical division) which can be applied in the agricultural sector. In a narrow sense only those norms belong to it that choose as addressees exclusively environment-users of this sector.

The more sensitive, positivist definition of agri-environmental law can be derived from the normative concept³ of the environmental protection with a teleological⁴ approach. Those rules of law, legislative measures and other legal devices of measure of state management, and those regulations of latter ones, that are aiming at – firstly the prevention or reduction of environmental risking, degradation and pollution which can be ascribed to

² Horváth Zsuzsanna: Az Európai Közösség agrárpolitikai reformjának környezetvédelmi aspektusai. In: Tanulmányok Veres József egyetemi tanár 70. születésnapjára, Szeged, 1999. /Acta Universitatis Szegediensis de Attila József nominatae. Acta juridica et politica. Tomus 55. Fasc. 1-34./, p. 139

³ See the Hungarian act on the general rules of environmental protection, No 53. of 1995, 4. §, point 32.

⁴ As per the sentence of Aristotle things must be defined from the points of their purposes, goals (teleology). See on the subject EDWARD GOLDSMITH, : Scientific Superstitions: The Cult of Randomness and the Taboo of Teleology; The Ecologist, 27/5/1996, 1997 IX.

activities bound to the agriculture directly or indirectly, secondly the reduction or ceasing of damage (damaging) of the environmental media and processes in them, and thirdly the restoration of an antecedent state of them just like before the activity entailing the mentioned effects (environmental in integrum restitutio) – belong to the concept of agri-environmental law, filling it entirely.

The CAP-reform starting in 1992 developed the multi-purpose model's construction of the agriculture. Since then the guiding principle of the sustainable agricultural development are the most important target areas of agri-environmental protection: providing the long-term protection of natural resources and a related anthropocentric aim, the quality of food, the residue- and pollutant exemption (food safety) of agricultural products intended for human consumption.

According to this agri-environmental regulation Member States have to start multiannual zonal programmes which shall be drawn up for a minimum period of five years. These multilevel special programs, „the agri-environmental programs” are earmarking the dissemination of environmentally friendly farming techniques. The number of the programs are significantly different in the Member States, they must not cover each other, and it is important to form a coherent system, which must be understandable for the smallholders, whose participating is voluntary.

The important steps of agri-environmentally relevant legislation cover the medial-, causal- and vital fields of environment protection which are involved. The special fields dealt with thoroughly in the literature – according to the degree of the human-hygienic relevance and the involvement of the environmental media – the quantitative- and qualitative water protection, the similarly two-way protection of the soil, or nature conservation dealing with the only living environmental element (too), finally the one that became popular recently, the speciality dealing with the environmental risks of the genetic modifications of genetic engineering, the so-called agrár- or „green biotechnology”⁵.

Compared to these the fields of the protection of air quality, the protection against noise- and vibration, the animal protection and the waste management are under-represented in the legislation and specialized literature of agri-environmental law because of their indirect involvement (the latter one can be caught practically just from the viewpoint of soil-, and water protection and air quality management) or because of their significance regarded as relatively smaller one.

⁵ This special field of agri-environmental law is the youngest one. In the German agri-environmental literature it is called shortly „Gentechnikrecht”

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