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The social farm

Theses of PhD dissertation

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Tartalom

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I. The subject and aim of the dissertation

According to my hypothesis, social farm and farm service is a viable model, which is sustainable in the long term and provides positive vision for the future of many disabled people. However, in order to ensure the maintenance and effective operation of the model and regulate its potential forms, it is essential to solve the existing legislative gaps and regulatory anomalies. Therefore, I focus on the services and activities provided by the social farm model – agricultural production, marketing activity and employment – and I explain the legislative problems and suggest possible solutions in connection with them. Another argument in the interest of social farm model is that in other European countries social farms operate as a well-established model within a state-recognised framework. Among the European models the Italian model is outstanding and exemplary with its specific legislation on the operation of social farms. The European Union has also recognised the importance of regulation. Although, there is still no uniform regulation and definition at EU level, I consider that the Member States' efforts to develop appropriate legislative framework will increasingly encourage the EU to do so.

The dissertation examines a multifunctional social innovation, the social farm model from the perspective of jurisprudence, which offers a possible solution to the problems of disabled people, a way out of disadvantage and which ensures the inclusion of this group of people in the agricultural environment. The well-being, integration, rehabilitation and employment opportunities of disabled people, in particular people with disabilities and with reduced capacity to work, are socially and economically important issues. Inclusive solutions are being implemented by state involvement and the development of solutions, but there are also „bottom-up” initiatives with viable mechanisms, which demonstrate the legitimacy of these innovative models. Social farms also belong to these bottom-up innovative models, which are active in Hungary, however, are less focused by the legislation.

In Hungary, although social farm is no longer constitute to be a 'new phenomenon or initiative – since the first initiatives considered to be social farms were established in the first half of the 2000s – the model is currently in a state of infancy according to its operational structure and state recognition. It is known by less people as social innovation and the concept itself is still unknown as a legal category. Similar to the same initiatives in other European countries,

it was established a bottom-up model, so the social farm service organisations started their operations in the lack of strategic and professional knowledge and an inadequate legal environment. Anomalies in the legislation, due to regulatory gaps and contradictions, currently hinder the proper functioning of organisations providing social farm services. Therefore, the appropriate legislation of social farms in Hungary is also important and required to respond to this new initiative.

In institutional terms, several types of social farms exist and can exist but all of them create a complex system according to their activities, which include social, production, marketing and employment activities, organised even externally or internally by the social farm service providers (natural or legal person). The main problems of the existence and operation of social farms derive from the production activity, the organisational framework and the conditions of co-farming. A particular problem arises when the social farm service provider wants to organise the production activity internally. Agricultural land is an essential element of agricultural production, which raises the question of land use and land ownership: Are these organisations also subject to land use and land ownership rights? A further problem arises from the practice of co-farming and sales activity of the target group using social farm service: Which specific organisational frame provides the possibility of co-farming and sales activity for the disabled people who are no relatives? The employment of the target group depends on the organisational frame, since the type of organisation determines the form of employment, whether a natural or legal person is on the employer side. The aim of the dissertation is to answer these issues by *de lege ferenda* proposals, which may serve as suitable basis for legislation.

The primary aim of the dissertation is to conduct a comprehensive research proposing appropriate regulation and its amendment, which would serve as a suitable starting point for the further efficient, state-recognised operation of the Hungarian social farms within legal frames. Furthermore, although a PhD thesis on social farms has already been written abroad, but not from a jurisprudential perspective and no such comprehensive work has been written in Hungary yet.

II. The structure and the hypotheses of the dissertation

The dissertation consists of five parts.

1. *Part I* analysis relevant issues of the topic which, I consider, create the basis of the research and determine the place of social farm within the social and economic life, using an interdisciplinary approach. The background of social farms is examined in this part within a separate chapter. In this chapter I describe the programmes and initiatives that demonstrate how the benefits of green environment were recognised in the Middle Ages, how it flourished until the Second World War, and how it has been reintroduced in the 21st century. I examine the issue of multifunctional agriculture in a separate chapter, as the social farm model is considered to be a multifunctional form of agricultural activity according to its complex and diverse nature. Thanks to the dominance of their social function, they are classified into the category of social enterprises, which are linked to social innovation in several ways. Social farms play an important role in social responsibility as well, as their aim is to solve a problems affecting a significant proportion of the society.

2. *Part II* is the next important stage of the dissertation that focuses on the placement of social farms in the system of green care models. I determine the umbrella concept of green care and the models that are being included, with a special focus on the concept of the social farm. Internationally, the different green care models have different characteristics but based on common basis: agricultural activities are carried out in a green environment, focusing on disabled people. One of the most significant chapters of Part II is the classification and interpretation of green care models, including the social farm model, which makes it much easier to distinguish between the different green care models applying the benefits of the environmental. This constitutes to be one of the novelties of the dissertation. Finally, in the last chapter of this part I identify the conditions which determine the successful operation of the social farms.

3. *Part III* focuses on the foreign countries' social farm models. I examine the characteristics of the Western European countries' social farm models serving as a model for the Hungarian legislation, including the United Kingdom, the Netherlands, Austria and Italy, which models serve as a basis for the comparative analysis and the *de lege ferenda* proposals. These four countries have different legal systems, however, it allows for a broader analysis and vision.

Moreover, in these countries social farms have longer traditions, operate within effective frameworks and have become very important.

4. Followed by the foreign examples, *Part IV* examines the Hungarian characteristics of the social farm model. The first chapter presents the domestic interpretation of the concept of the social farm and the definition created by a group of experts. In our country the concept of social farm is often confused with the concept of social cooperative, therefore, a separate chapter deals with the distinction between these two concepts. In the following chapter I present the types of social farms identified in our country. Then I describe the social farm service and finally the scope of subjects, who provides and who uses the social farm service.

5. The final part, *Part V*, foresees the vision of the future, the elements of the proper operation of the social farm system, which will serve as a basis for the domestic legislation. The dissertation identifies several problems and gaps in the legislation that currently make it difficult for the social farms to operate effectively. I make *de lege ferenda* proposals for the possible legislation and reform of the current legislation by taking into account the example of the foreign countries.

The dissertation aims to answer the following three hypotheses.

1. My basic hypothesis was that social farm provides a suitable alternative for the integration, therapy and employment of disabled people and is suitable for this group's social and economic support. Therefore, they can become useful members of the society. It also has an important educational and awareness-raising role, especially for children.
2. According to my second hypothesis for the effective operation of social farms, it is necessary to adopt special regulations for social farm services within the incomplete and restrictive Hungarian legislation.
3. My third hypothesis was that any organisational form is suitable for being a social farm.

III. The methods of the research

The application of a *comparative legal methodology* is indispensable in the case of the chosen topic, since green care models, including social farms which implement complex services, operate in several European countries, so the regulation of certain Western European countries can serve as a model for the domestic regulation. In other European countries social farms have a longer tradition, furthermore, the background of them have also emerged abroad. The comparative legal method is used in Part II dealing with the systematic analysis, which compare the different concepts (analytical method) and identify the common features of the green care models (common-core method), and at the end of Part III presenting the foreign examples which classify the characteristics of the examined foreign countries (structuralist method). The comparative legal method also plays an important role within the proposals for the possible domestic regulation.

In the dissertation I apply the *interdisciplinary analysis*. The jurisprudential examination is only one of the possible approaches and solutions to the problems faced by disabled people, but it is also one of the most important sciences, as the lack of state recognition and the absence of a proper regulation make the existence of the social farms very difficult. The identified problems of disabled persons are therefore not only issues that can be addressed by jurisprudence, but other sciences and within disciplines also play a significant role in them, such as sociology, management and organisation within social sciences, agricultural theory within agricultural sciences and psychology within medical sciences. The social farm model is an extremely diversified, multidisciplinary model. This dissertation does not aim to take an all-disciplinary approach, but only to examine from jurisprudential perspective. The model of social farm can also be examined from a number of legal disciplines and fields of law: agricultural law (agricultural theory, rural development, the subjective and substantive aspects of the agricultural holding system), cooperative law, labour law, social law, constitutional law, company law, financial law and financial support law. Since the dissertation is essentially concerned with agricultural law, it examines the characteristics of the social farm model primarily from an agricultural law perspective, within the legal field of agricultural law. In addition to the agricultural theory analysis, labour law and social law the literature is also applied.

One of the applied methods of the research is the *normative method*. The dissertation examines the provisions and gaps of other relevant laws as well, such as the Civil Code, the Labour Code and the Social Code, in addition to the Land Transaction Act. In addition to the descriptive analysis I endeavour to apply critical analysis, mainly in the examination of the legal provisions. I formulate the regulatory gaps and contradictions of the legislation with regard to the issue of agricultural land use and land ownership, the subject of farm service providers and the relationship between farm service users.

Applying the *dogmatic method*, the dissertation focuses on the analysis of the domestic model in addition to the examination of the international examples. The description of the domestic characteristics of the social farm is an important part of the research. Furthermore, I use this method to examine the social and economic role and importance of the social farm model and the classification of green care models.

In examining the role of certain legal instruments, the development of the legal instruments in question is presented in their *historical context*, where justified. The origins of the social farm model is examined in this aspect. It should be noted that there is no real history of social farms in Hungary, as they appeared in the country not so long ago, in the 2000s. Thus, in this case only the development of foreign examples is examined. In particular, by examining when, under what name and how the social farm model developed. However, the historical aspects create only a small part of the dissertation, as it focuses rather on the present.

It is important to emphasize that, in addition to the analyzation of the relevant literature *empirical analyses*, including meetings and exchanging ideas with foreign researchers, visiting foreign farms and researching on the social farm run by the Szimbiózis Foundation in Miskolc, played a significant role in my research. These empirical researches were very helpful in examining foreign examples and domestic characteristics.

IV. Summary of the research

As the results of the research, the following *de lege ferenda proposals* were made for the three hypotheses:

1. Social farms and farm services help and integrate a wide range of disadvantaged people and bring significant benefits to the wider society.
2. Specific legal provisions and legislation are required for the effective operation of the farms.
3. Operation in accordance with the conditions and characteristics necessary for the provision of social farm services determines which model qualifies as a social farm. Therefore, any organisation form that meets these criteria is considered to be suitable.

In the followings I detail the results and *de lege ferenda proposals* of the research.

The starting point of the research was that the model of the social farm is intended to address and fill those gaps which primarily handle the integration, therapeutic and employment opportunities of disadvantaged people, especially people with disabilities and people with reduced work ability. The social farm aims to remedy their discrimination, social exclusion, exclusion from the labour market and the significant limitation of access to work by integrating them, by providing them supportive farm services through agricultural activities, including employment, which should be guaranteed for them – based on fundamental rights. Thanks to social farm service, these people can also feel themselves as valuable members of the society, highlighting the significant positive development trends – complex services: personalised social, health and education and care services – for these people as provided by the farm. All these give them a balanced, personal security.¹ It also disseminates useful knowledge to the wider society, allowing them to learn specific agricultural activities and learn how to cooperate and collaborate with disadvantaged people living and working on the farm. It should also be noted that farmers also benefit from social farm service, as they become more open to the outside world, they get useful labour force, it provides them new source of income and even new tender opportunities. The dissertation aims to confirm the first hypothesis that the social farm service provides a suitable alternative for the integration, therapy and employment of disadvantaged people and is suitable for this group's social and

¹ OROSZ 2018a, 222–223. o.

economic support. It also has an important educational and awareness-raising role for the wider society, especially for children.

In order to be able to distinguish between green care models and the same under social farms, a common 'European' definition shall be determined for Europeans. Furthermore, within green care models a distinction should be made between initiatives that serve only therapeutic purposes and those social farm models that provide complex services – such as therapeutic, integration services and employment opportunities. The classification of green care models carried out is one of the main results of the dissertation. A unified definition would facilitate the identification and interpretation of the concepts and state recognition and interpretation within the EU and internationally. It would also facilitate access to grants, allocate tenders and public procurement, and support social enterprises to enter the market.

The second hypothesis is a complex issue, discussed in the last part of the dissertation, in the fifth part. The study and analysis covered the possible regulation of social farm service as an agricultural activity, the issue of land ownership and land use in social farms, and the employment of social farm service users. Although these issues have been examined in separate chapters, they need to be considered systematically and interrelated to provide an appropriate response and solution for the current problems.

In order for social farms and farm services to become a legally known and accepted concept, it is necessary to regulate the concept previously defined by experts in the legal framework. It should either be regulated within the framework of the Land Transaction Act, under agriculture, forestry activities but mostly under secondary activities, or it should be defined in a *sui generis* law regulating social farms. I prefer the second of these solutions.

An important result of the dissertation is to extend the possibility of land ownership and the use of land for organisations providing social farm services so that they could use agricultural land for various agricultural activities without any obstacles. Taking into account the example of the examined foreign countries and the practice of the Court of Justice of the European Union (CJEU), there is a need for lighter regulation under certain restrictions – for which I made a proposal – in order the acquisition and use of land by legal persons providing social farm services should be guaranteed within the law regulating social farms.

Disabled people and people with reduced work ability also have the right to work - in accordance with the fundamental rights guaranteed by the Fundamental Law. The social farm also guarantees that through various agricultural and complementary activities, rehabilitation

and development employment. Attention should also be paid to changes in some of the legal provisions, such as the more favourable number of employees and the scope of employers. I think the best solution would be for the social farm to be run by a social institution, which would also provide rehabilitation and therapeutic services to the target group.

In connection to the regulation of social farm service I concluded that specific regulation is needed for the effective operation, which can be achieved by amending existing legislation or adopting a separate law. Appropriate legislation can also be considered a primary step in defining the conditions for state recognition, so that farms can operate legitimately in our country.

Finally, concerning the third hypothesis, an important result of the thesis is that the appropriate organisational legal framework of social farms shall be delaminated. However, it is important to understand and emphasize that not the delimitation of social farm organisational forms, but the operation in accordance with the appropriate qualification system, i.e. the conditions and characteristics necessary for the provision of social farm service determines which model qualifies as a social farm. In addition to farmers and individual entrepreneurs, social cooperatives, NGOs, non-profit companies and public benefit organisations may also be suitable for providing social farm services in our country, if land acquisition and use becomes available for these organisations. Therefore, no single organisational form is suitable for providing social farm services, but if the proper regulation is accepted and the necessary conditions are fulfilled, a multiple organisational structure would become suitable.

An essential aspect is the proposal to regulate the internal relation of social farm service users. For example, membership within the NGO would create a relationship between the service users, allowing the NGO to own/use the land, however, there some problems arise in connection to this solutions. The best solution would be to carry out the contract-based activity within the so-called civil law partnership for community farming, establishes by civil law partnership contract based on a contract, and would enable co-farming with the necessary detailed rules. In addition, solving the issues of co-farming would create the conditions for market access and would allow the integration of organisations providing social farm services into the small farmers' regulation with the name of small farmers' unit.

In developing and defining the concept, I aimed to offer a solution that can be applied by both the legislator and the social farm service providers. I examined four European countries

providing appropriate examples for the Hungarian regulation. I prefer the Italian legislative solution among the four, which has specific law for social farms.

V. Publications related to the dissertation

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