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**“The provisions of the Rural Development in  
connection with the agriculture in Hungary” –**

**Theses of the PhD Dissertation**

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## I. SHORT DESCRIPTION OF THE RESEARCH TASK

At the beginning of my research, in 1997 the Common Agricultural Policy and the system of agricultural subsidies, which had been the symbol of consistency, changed fundamentally. The change was of such magnitude that the agri-structural policy I had become familiar with during my gradual studies outgrew its boundaries and transformed into regional development policy. The difficulty of the research was provided by the fact that I had to study and analyze from a legal perspective a constantly changing system.

The direction of the research was given in part: as I had to explore and become familiar with the most important developments of an area intact from a legal point of view. On the other hand, I had to distill from notions created by other disciplines, which is relevant from a legal point of view. In the outset of the research I sought answers for the following questions:

What are the roots of the current regulation of Hungarian regional development? Were there any predecessors of the regional development among Hungarian subsidies? How did negotiations on EU accession influence the Hungarian regional development? Were regional development elements of pre-accession assistance programs effective? Does the form of regional development assistance bear any legal relevance? Does the regional development regulation of Member States have effect on the Hungarian regulation? What should Hungarian regional development look like after 2007?

These questions define the framework of the dissertation prepared later. The work is divided into 3 sections and several chapters within each section. The title of the sections serves a dual purpose: it refers to the given historic era in which regional development evolves and develops and on the other hand it refers to the methodology of the analysis. The first section, which lasts until 1998, is the heroic age of regional development. This is when forms of subsidies of the later developed regional development evolved due to the agri-structural policy, and as a result of the development of regional policy the most important planning, procedural, programming questions evolved that make this area of law unique.

After clarifying the preliminary questions I summarized the most important notions of regional development as a theoretical basis, and compared them with agricultural policy, and region development, and formed my opinion in this respect.

This chapter of dogmatic-theoretic nature had a pre-eminent importance in the first section. The timing of the development of regional development would justify that such dogmatic-theoretic questions were placed in the work where their location is defined in the thesis. On the contrary, due to the influential effect on the whole work of the notions related to regional development, the fundamental principles of regional development and its principles of evolution these concepts were placed to the initial part of the work. In the first section, I used the dual approach present in the whole work when attempted to explore the traditions of regional development in the Hungarian system of agricultural subsidies and the inner characteristics of the subsidy system.

In the second section of the paper, which deals with the period between 1998 and 2004, in addition to the critical analysis of the most important sources of regional development evolved in the European Union, I looked for the answer to the question how the negotiations concerning EU accession changed the attitude of Union law

makers to regional development, and how did the system of community initiatives, more particularly the LEADER program besides the council regulation regarding regional development subsidies influence the evolution of regional development. One of the fully analyzed aspects in Hungarian law of the era is the SAPARD program - the pre-accession assistance related to regional development – which is a representative area and typical instance of how inflexible community bureaucracy is with a state that is unable to implement in its programs what has been defined as its contractual obligation. The most important question of the era was whether the pre-accession assistance programs provided by the Union were appropriate to prepare the candidates for the implementation of the conditions defined in the council regulation regarding regional development subsidies and the advertisement of planning, programming programs and forms of assistance.

In the third section of the paper the ratio of union related and Hungary related parts changes. Subsequent to the accession, the reform of “sui generis” regional development assistance has become necessary based on the system found in the Union. The fiscal approach is a key characteristic of the administrative order of regional development assistance. On this basis the rules of assistance procedure financed from the two sections of EMOGA differentiate. The differentiation is not only evidenced in the rules of procedure but in the typical forms of assistance. The decree form is typical for the so called “accompanying” measures and the tender form is typical for most of the classic regional development measures. I analyzed along these distinctive attributes whether the additional guarantees of tender type assistance forms are enough to exclude the judicial review of decisions made by decision making entities of such tenders.

I compared the legal titles found in the National Rural Development Plan and the Agricultural and Rural Development Operational Program of the National Development Plan, which currently form the backbone of the applicable rural development regulation with similar programs of some of the old Member States (Spain, the United Kingdom, France and at some places Germany). I looked for possible answers regarding the future of rural development in the last chapter of the third section. The question became timely as in September 2005 the decree on Agricultural and Rural Development Fund (EMVA) was published, which will fundamentally reform the current system of rural development as of 1 January 2007 and is a sort of synthesis of the present regulation. Besides the analysis of the EMVA decree, I summarized my views regarding the reform of the Hungarian system of rural development and its legal relevancy.

## **II. METHODS AND SOURCES OF THE RESEARCH**

There are plenty of factors to be considered in the first monograph of a developing area of law.

The methods of the research changed in connection with the structural elements of the dissertation and with the circumstances that made the realization of the aims defined in the structural elements possible. Therefore the *dogmatic and historic approach* and the *descriptive-analytical method* are dominant in the first section. The description is not selfish by nature as it attempts to find out the answer to the most important question of the research, ie. what is rural development and what are the preceding elements of such complementary policy. The majority of the sources are of *economic and agro-economic nature* but I attempted to provide a more complete procession of sources of agricultural law.

The descriptive method was replaced by the *critical interpretation of legal materials* in the second section. This can be evidenced in the complete procession of the community law related to rural development without any antecedent. This critical approach is not only an important attribute of the fifth chapter of the dissertation from a legal but from an economic standpoint. In the fifth chapter I interpreted the effects of agricultural accession in relation to assistance forms of regional basis and rural development. The effects of economic and legal analysis are summarized in the eighth chapter which deals with the effects of the SAPARD program, which can also be interpreted as a characteristic summary of the pre-accession period. The sources of the second section are of economic, financial, administrative and of agricultural legal nature mostly and are of criminal legal nature for the sake of a brief outlook.

The third section of the dissertation can be characterized with the methods of critical legal interpretation and comparative legal approach. The problems of the analysis focusing on the applicable provisions of the substantive and procedural rules of the rural development system can descriptively be expressed with the comparison of forms of subsidies found in various Member States and in Hungary, which can be found in the closing chapter of the third section with a few remarks regarding the future. The sources used are of financial and agricultural legal nature mostly with an outlook on the findings of economics.

### III. RESULTS OF THE RESEARCH AND OPTION OF UTILIZATION THEREOF

1. Similarly to regional politics, rural development is a *complex* field having aspects affecting agricultural, regional and social policy, and planning thereof as well as controlling utilization of financial budget, it follows a system established during the evolution of regional politics beyond any doubts.

2. Own principles being fundamental concerning the definitions of rural development policy are being established, which may be characterized by delimitations from *all bureaucratic institutions and preservation of rural interest and culture* which lays emphasis on the priority of analysis and multipurpose research of rural program results.

3. The most significant concepts of rural development continuously characterize documents drafted in the field environment-conscious thinking in this field appears not merely by its elements but *sustainable development* becomes one of its basic elements. It *forms an improvingly determinable transition between environment policy and agricultural policy*.

4. Rural development is a complex activity effecting several policies which has developed in a well-delimitable manner in Europe within the framework of the common policies:

The first steps dating back to the establishment of rural policy created the *special market and operation related system of subsidies* of rural areas, as *diversification* of agricultural activity is strived for in these areas.

The second step is the promulgation of *agricultural environment protection measures*, not only in fields being in a detrimental situation by having created multi-polar sustainable agriculture, agricultural activities became extensively interpreted as well.

The third dimension was aimed at achieving *preservation and distribution of rural interests* and its most important slogan is establishment of *cooperation between town and country*.

5. Characterizing rural development of individual policy and considering it as part of regional development or agricultural development are the most disputed issues in scholarly writings.

Summarizing the results of the thesis we can state that due to utility reasons it is reasonable to define rural development as the *second pillar of agricultural policy*. This pillar has different financing methods and administrative organization compared to centralized agricultural institutions, however increasing significance of the pillar facilitates *rationalization* of agricultural policy because the new segment of this policy allows for agricultural policies considerably different from each other by enabling Member States to develop different segments of the four pillars of rural development. *In addition it enables wider distribution of eco-regulation* and by emphasizing subsidies, establishment of a more just agricultural policy connecting stronger to operation and production quality as well as better enforcement of free market principles.

6. Agricultural structural policy has played a significant role *in the reconstruction of the agrarian structure* and in the abolishment of the position of agriculture as secondary economic sector.

7. The notion of the *agricultural product* appears in the Treaty of Rome regarded as the constitutional basis of agrarian policy and is object to numerous analysis of lawyers of agrarian and European law dealing with the present domain. *The EC Treaty not, only the structural policy directives touch upon the notion of agricultural farmer*. The farmer, as subject of the agrarian policy purposes, who has to be supplied with adequate income, is nevertheless always present in the agrarian policy in the level of declarations.

An incontestable result of this period is also that the system of agricultural education evolves, *the notion of the modern farmer* and the practical knowledge accompanying the education were born, and *the institutional system of the tradition of the farm* took form, from which *the evolving social law takes over and universalize the pre-pension*. For the farmers staying in the agriculture, who had themselves registered, a unique statistical data-providing system has been established.

8. With the development of agricultural structural policy territories have been created which *would have depopulated without Community subvention, as the conditions of production do not serve the given sector*. These territories though have been regarded as *disadvantageous* from numerous aspects, so their development project avoids the competence of agrarian policy. The special inner regulating system of the born regional policy has regarded this field as its own, which has not even been considered as part of agrarian policy in the early 90s by many economists.

9. One of important achievements of the regional policy determining the procedure order and the frame of rural development was that the Member States have to attempt *by the expenditure of the moneys to accomplish the criteria determined on Community level*. In the unique territorial statistical system *the results of the regions* as well as the efficiency of the projects backed up *are commensurate*.

10. The regional policy nevertheless fails to *compete the Member States of different structure in the same statistical regions*. It would be more important than the competition on the same territorial basis if *rural development was not a competing development aim presented in a national development plan, but because of the importance of the subject an independent budgetary resource in deconcentrated fields*.

11. The territories based on traditional agricultural production and disposing of underdeveloped infrastructure – the later rural regions – *could have become able to demand subventions from different funds and on different titles, but it was prohibited by the competition rules of the regional policy itself*. Regional policy has extended the frames provided by the structural funds. The system of subventions was to be reformed, and *the regional frictions of the mentioned territories could have been handled with the redeployment of the agrarian*

*subventions* less and less to be financed. Solution was the development of the agrarian structural policy silenced for decades, which has been solved with the integration of rural development policy in the agrarian policy.

12. The other great achievement of regional policy was that the connected programs *serve besides the development of the region the purpose of a special policy as well*, so regional development can be legally financed from monetary funds created to develop special policies, which could strengthen both domains. Regional policy is therefore no competing but additional policy.

Capitalizing on this fact, *overlapping* between the aims of the until then entirely independent monetary funds *has begun*, and even among some special policies aims have occurred which belonged to the main profile of another fund. This tendency has survived this period and has progressively led to the modification of the system of monetary funds.

The to our subject most important part of this process will be how the independent rural development fund is to be created, and how its existence changes the system of financing of the funds.

13. a, The most important point of regional policy was the evolvement of a centralized *programming system where local cooperation*, besides the measuring of the local demands the harmonization with the Community programs *was not only tolerated but even required*.

b, *Co-financing* assuring the efficient expenditure of the central subventions can be regarded as an innovation from the point of view of the structural funds, where the applicant completes with his own resources with more than 50 % the Union and Member State moneys provided for regional development and programs, another innovation is *the central audit and assessment system*.

c, Besides the system of co-financing, this system is not transparent from the aspect of the competing Community and Member State competencies, the program to program changing composition of the co-financing as well as the decision-making competence of the cooperating authorities, so it would be a significant step forward *to simplify and differentiate according to the special policies*.

14. In connection with the administration of the Hungarian SAPARD Program the following deficiencies can be shown in *the Union's approach*:

- important legal acts have been adopted with *relevant delay*, the lack of which has delayed the preparation works of the acceding countries;
- the Hungarian experts could often feel that *the Hungarian part is criticized in the lack of properly fixed requirements*;
- the principal 'behold the mote in one's brother's eye' has often prevailed, let us see *the example of Greece, who himself acquits many Union requirements with a delay of years*; yet from the Hungarian negotiations the entire harmonization was required by the Portugal and Greek experts.
- *in the audit commissions mainly the representatives of the adverse agrarian countries were present*, who would have comprehensibly preferred to see us being outside the Union;
- the Commission has *refused a work created upon an institutional development plan that he himself agreed before*.

15. The European Agricultural Fund for Rural Development, created in the regulation Nr. 1698/2005/EC (EAFRD regulation) and with the creation of the four pillars of rural development the Commission *enlarges the*

give of the Member States and of the regions beyond the Member States as for the assignation of the resources, and the possibilities of the in special institutional frames unifying farmers standing on other basis, with a tip of business spirit, paying attention to the environment, and the possibilities of the regions.

16. The *co-financing*, which is a fact on the field of rural development, *works in the agrarian policy only in the case of the new Member States*. A form of the radical reforms could be *the enlargement of the role of rural development in the agrarian policy, which would make more just the subventions' assignation of today*.

**Relating to the development of the Hungarian Rural Development the followings could be laid down based on the thesis:**

1. According to the outlined review of the Hungarian Rural Development it is obvious that the subventions have not got historical traditions in the Hungarian agriculture *coming under the Prussian way*.

2. A conscious and supporting agricultural policy is said to be exist in the 60's when the *collective use and the extensive production* were characteristic.

3. a. In the second part of the 70's a *differentiated subvention system* emerged in the same structural co-operatives operated by the agricultural department of the local council and in the state farms. The basis of the differentiation was only *the gold crown value of the lands*.

b. The less favored nature *did not cover the infrastructural disadvantages of the lands*, the composition of the local community in this period, the effectiveness of the work were not countable in the full employment.

c. Thanked to the additional subventions the role of the Rural Agrarian intellectuals increased in the organization of the work and the *endeavour of the characteristic products' production relating to the rural area* emerged and strengthened. It showed a new way for the development of the Hungarian Food Industry. The results of the additional subventions were *the acclimatization of the new plantation cultures and the existence of the small intensive works' products in the Hungarian market using the strength of the family in case of the family farms operated and organized by big works, making possible the beginning of an other development's way*.

4. After the transformation of the regime the agricultural subvention until 1993 is not part of a conscious development, besides the decreasing financing *a totally different use and subvention structure was created*.

a. The looser of the contesting and the unplanned interests is the agriculture, from which is *separated the state guaranteed and not repaying subventions* from 1993 in the course of the extension of the fiscal idea and by the introduction of the interest subventions the subsidies of the farmers are put in the bank system.

b. It comes from the subvention policy that the solution of *the less favored areas in a separated system disappear* and the environment protection can be described at a separate level till the appearance of the 1995 Act.

5. In the course of the strengthening of the social tensions the concrete Agrarian Development Concept was established in 1996, in which *the basis of the Subvention Act, the institutional and financial conditions and the subvention titles were laid down*. The creation of the special procedural rules relating to the Agrarian Subventions came under the force of the government, while the subvention orders stayed in the competition of the ministry order. At this time appears the *Rural Development* at the level of the agricultural declarations and the first Rural Development Plan was declared. By the appearance of the Plan the first titles relating to the

reorganization of the inequality of the agrarian structure came into force and in this period the law harmonization becomes a crucial point.

6. The pre accessional funds had a main role in the creation of the democratic transformation and of the market economy in the post communist states. In the creation and development of the PHARE *the take over of the main part of the decision's forces was the crucial point*. However, the entire decentralization was delivered only by the establishment of the SAPARD.

7. The SAPARD Authority, of which establishment was a main point in the reform of the Hungarian administrative organization, *has a double nature because it is the executive organ of the European Union and of the Republic of Hungary*.

a. The Authority will be our first institute which is accredited according to the requirements of the Union and it has an entire authority on the union financial means.

b. Comparing to other authorities *the role of the checking* is increasing and the monitoring is also a new element, by which the effectiveness of the Authority's function is examined.

c. *It meets numerous requirements relating to the modern administration* (aim based organization, workers with up to date knowledge, informative background).

8. At the level of the declared programs *the agrarian and Rural Development programs cover each other* in the executive system of the SAPARD. The program on its own according to the expectations of the Hungarian government is other financial mean given to the agriculture

9. It was the part of the study that *the correct information about the program was not available* to the potential favored people. About 2000, when the first Hungarian institution was established, numerous fliers made open the SAPARD subventions to the public. It was a bit early because till the proper establishment of the institution it was not necessary. Many producer and user counted on these subvention titles by the planning of the enterprise's financial opportunities and took not serious the declared application in 2003. Besides the subvention titles and the difficulties of gaining information about the financial means, *the subsequent payment nature of the subvention, the strictness of the checking and the forms of the necessary appendixes were known for the potential applicants only in the last moment*. Because of the procedural questions, there were many *big enterprises which could apply for the applications and the difference between sustainability of the enterprises became wider*.

10. The following consequences can be laid down relating to the future plans of the Rural Development: with regard to the Hungarian agrarian structure a Rural Development Policy of three parts would be necessary. On the areas under intensive cultivation, *the not-interfering system including general programs* is important. In the demanding, small works sustaining vine and fruits sector the task of the Rural Development shall be the origin and quality protection and the origin marks too. *In these parts an effective institution system can make decisions having decision making competence*. In the third part the production, the sustainability of the present ecological state, the tourism and reservation of the tradition can be the new way of a better future. *On this areas because of the drawbacks it would be considerable to support the programs without own risk besides the Structural and Rural Development Funds*.



### **The statements, conclusions and results of economic character in the thesis**

1. Most of the occidental analysts were afraid of the agricultural effects of the accession: the remaining Hungarian farmers have produced at the date of the accession *products of similar quality – by receiving the fraction of the extent of subventions their occidental competitors received*, at the end of the 1990s *the price of the arable lands was low, and as an effect of the high percentage rural unemployment and of the frittered proprietary construction, it was the farmer who determined the price of the leasehold and of the labour*.

The fear accompanying this approach was strengthened by the foreshadowed reformatory objectives of the AGENDA 2000, according to which *the proportion of the previously received price-based subventions was to reduce*. In the production, the maintenance of the cross compliance criteria and compulsory rural development-redeployment was to be introduced.

The proposal under AGENDA 2000: *pre-accession aids and the lack of the payment of direct subventions*.

2. The acceding countries have nearly all begun in their negotiation-initiatory documents with naming a *base period* where, in the divided Europe, they could merchandize in the oriental markets almost without concurrence. The respond was the insistence upon the mid-90s as base period, putting across an intensive fiscal policy against the acceders. Besides, *the liquidation of their semi-subsistence farms* has occurred as requirement vis-à-vis the new Member States, which has been coupled with *the reduction of the proportion of agriculture in the domestic product*.

3. As an effect of the acceders' base period drafts set out in disadvantageous time and of the fear of market loss, the proposal of the Union concerning the *double direct subvention* was born. This proposal introduces progressively and with a few initial contribution of the Union the direct subventions of the new Member States. Withal, it retains for later on the opportunity to put down this twoness.

4. With the double direct payments as a result of the failed agrarian negotiations, *the admission of the new Member States has been postponed for two years* compared to AGENDA 2000, so that the effectuated and foreseen payments to already member states remained in the budget of the Union. These moneys have been expended by the old Member States. The world market processes have reduced most of the Union's accumulated agricultural products by 2003. Consequently, the maintenance of the reformatory measures of agricultural policy has been solely motivated by the accession of the ten Central, Eastern and Southern-European countries.

These changing world market positions could not have been capitalized by the acceders. Despite that the termination of the accession negotiations has been in the interest of the Commission, neither the schedule of the direct subventions, nor the base periods could have been changed. *As only positive result of the accession negotiations could be regarded the fact that the region subventions agreed on normative basis could be accorded to intensive cultures as well, furthermore, the measures of additional character have become redeployable to accompanying measures, reducing the moneys for rural development*.

5. The preparation has been prosecuted on different levels, but in the informational publications *the farmers' attention has not been drawn to the fact that the region-based subventions are post-financed, and neither the national supplement is to be pre-financed*. Thus, most of the farmers remained without resources at the beginning of year 2005 and was not able to start their agricultural labour.

6. One of the most important lesson of today's rural development is that the following problems of agriculture and rural development bank without real solution:

a, apart from the two independent rural development projects, *there is no strategy of integrate approach.*

b, the property and the leasing system are *incompatible, the lack of capital is continuous.*

c, the general lack of capital does *not provide basis for the self-part of the economic development neither.*

d, most of the farmers are *under-educated, the education lacks legal and economical factors.*

e, *the expenses of the advisers does not suit the soundness of the sector.*

f, the Hungarian agrarian policy does not lay proper emphasis on the promotion of the efficiency of the applications and regulations supporting the general infrastructural and natural maintenance of the country.

7. The identity search of rural development is not solved either:

a, many regard this domain as *part of the structural development*, which is overmatched in the competition with the cities having better ability to protect their interests.

b, this domain could become an important instrument of the reform and the reduction of expenses of *agrarian policy, if its approach and financing method are adopted on the level of market regulation as well.*

c, *social questions* can reach new type of solutions in the frame of this policy via *autonomy and community-creation.*

**The following statements and conclusions can be drawn from the thesis concerning the law of rural development:**

1. Almost at the same time as the beginning of the negotiations, the regulation Nr. 1257/1999 on rural development (as well as its additional executing regulations) have been released, which I abbreviate as *basic regulation on rural development* in the thesis.

The acceding countries had to begin with the preparation of the *planning-related, organizational and concrete tasks* concerning the rural development on the basis of the present regulation.

2. The financial basis of rural development has been administered by the two sections of the EAGGF, but the structure and the frames of these sections were deeply different. The guidance section belonged to the structural funds, which had as consequence that the basic regulation on rural development has *referred to the rules of the regulation on structural funds released at the same time* concerning the planning, the structure and the monitoring system. Rural development has not come apart the development of agriculture in this field, and it had to be harmonized in the frame of the National Development Project concerning the structural development of the country.

3. Rural development has occurred as common perspective among the purposes of the *structural and additional basic measures, but in the background the picture of an expanded agrarian policy is clarifying, whose factors progressively immingle.*

4. Although the rules of compatibility distinguish between the two domains of agrarian policy, and try to *circumscribe* the subventions of these two territories. With the amendment of the regulation and the establishment of the cross compliance criteria in the case of subventions where *rural development subvention is given for the accomplishment of the criteria* and where the farmer takes stricter obligations than described in the

criteria, the farmer has to be accorded, *besides the subventions of market character, the rural development subvention as well.*

5. The programming is to be distinguished from all the other proceedings, and is a very complex procedure. The preparation is in the hand of the Member State, the decision in the hand of the Commission. By controlling the aspects of affirmation, *the accomplishment of the compliance, the respect of the Union's competition law, as well as the set common aims is measured.*

The only difference of importance between the two proceedings, financed from different sections is in *the time of affirmation as well as in the complexity of the programs.*

6. Besides the programming, *assessment* is an essential, determinant part of the rural development subventions, which is concluded by independent experts. This three-phase procedure can modify both the presented programs and those not yet authorized, and the subventions already operating, the post-assessment can even affect the next programming cycle as well. In the case of newly started rural development programs, *there is no comparable and measurable data at the time of pre-assessment*, the expert's report can only be based on speculation, and considerably elongates the procedure for the establishment of the program.

*With the subvention measures modified several times because of the measures made in the meantime not only the efficiency of the system can be augmented, but the clarity of the system can be reduced with the frequent changes, and a creation of a situation where the Member State can use a fragment of the amount to his disposal by reason of the subvention applications incapable of acceptance.*

The results of the post-assessment can provide information from which the efficiency of a program can be measured. *No further conclusion can be deducted upon the question of possibility for examination of these informations and upon the way of the analysis by interpreting the regulation.* It would be necessary to provide the possibility for examination of the post-assessment and handle its results as information of public interest.

7. Concerning the audit and the sanctions, the regulation and the budget of the connected regulations relating to the Integrated Administration and Control System (hereinafter: IACS) *regulates without necessity and with an enormous intervening questions, to which the rules of the national law and legal system of the Member State should be applied.* All factors of the IACS can be found in Hungarian law. The multiplication of the region, animal and farmer registers complicates at many points the situation of farmers receiving subventions from different sources. The audit system, determined by percentage and according to subvention titles, which is completed many times with a distance perception bringing enormous expenses, *does not ascertain in my opinion the control of the legality of the use as the traditional field control did.*

8. The application of the rules of competition law or the lack of them raises once again the question to which extent is rural development an agrarian policy, and to which extent can the special agrarian competition law be applied for it. Maintaining the conclusion I have drawn in the dogmatic part, I declare that rural policy can be regarded as a special segment of agrarian policy.

The development of Community law goes to this direction as well, as if *the codifier had enforced the primacy of general competition law, he would not have ruled in another way the rules of state subvention in the basic regulation on rural development.*

Among the state subventions are although exceptions the in the thesis interpreted rules on rural development investments of public interest and agri-environment commitments in special fields.

Starting from this point, it would be essential to *remove* from under the effect of the rules on state subventions the titles backed up from the European Agricultural Fund for Rural Development, *and to apply the dissimilarity of the subventions to the competition rules only on accompanying Member State measures accorded in provisional periods.*

9. The creators of the program SAPARD have not recognized the aspects according to which – by more acutely separating the two domains – the subventions, accorded until now entirely to agricultural undertakings, and which cannot be provided according to the rules of the WTO, could be maintained in forms of applications having another basis, calling for persons and regions less concrete, according to the rules of rural development.

10. By the creation of the Hungarian SAPARD Office, the lessons of the already existing systems built up in countries with similar facilities have not been taken into consideration. The requirement, constituting the legal basis of the Hungarian Office's basis, the *Long-term Financial Agreement*, was given in Community law. *The systems built up in other countries upon in the thesis elaborated regulations 1257/1999 and 1260/1999 could have provided a lot of important lesson.* The Hungarian SAPARD Office has made a comparison like that, but the results of the comparison are not applied during the creation of the Hungarian Office.

11. It would have been a better opportunity for the Union as well to *create a conception related to the planning.* The built up system, which would have contained the codification projects compatible with the political plans, can be bolstered conceptually.

12. Due to the accreditation and the continuous audit, as well as the conception modified several times, *the principal of legal security has been breached several times*, the process of which became hardly recognizable. The partition of the tasks and the work to do was that unknown from the part of the organizers that *it was impossible to find out, people of what qualification should fill the system. The qualification requirements have been developed progressively, so the tasks of the education remained by the office.* After such an intern education it is difficult to evaluate and control the man-power.

13. The procedure of the structural subventions and of the subventions financed from the Guarantee Section can be measured in the level of *incompatibility, use of data and delegation.*

14. The structural process with double stages, and provided with lots of personal and objectionable guaranties suggests *the impartiality* of the decision. The main reason for this is the fact that taking into account the opinion of the differently personally constituted commissions the final decision will be made by the Governing Authority.

15. The decision can be declared in *subsidy decision* in connection with the subventions deriving from the EMOGA guarantee section and in *subsidy contract* in case of the structural subventions. In the contract the additional rights of the administration and the opportunity of the one-sided amendment are felt, however, the realization of these is questionable because of the lack of the regulation relating to the *subsidy contract.*

16. The guaranties of the structural subventions are at a high level and assure the impartiality essentially in a better way than the subventions relating to the additional measures. By the Union refinancing of this area the state property decision, by which means the Constitutional Court refused the action for avoidance of the subventions, became contestable. The opportunity of the court revision relating to the subsidy decision is an important procedural guarantee in the EU subvention law, and its existence can be discerned from the cases relating to the LEADER.

17. The French, Spanish and British practice gives the following consequences to the Hungarian Rural Development:

a. In these countries the developing plan relating to the area is *always independent; however, the structure becomes stable mainly till the realization of the programs.*

b. In the field of the agric-environment measures it is not necessary to realize all the activities coming under the ruling of the market organization only the realization of the stricter cross compliance criteria differing from the general criteria is crucial.

c. The cross compliance criteria could vary in the federal states by member states, in the Unitarian states by regions.

d. In the Rural Development the governing, financial and administrative separated funds meeting the EU expectations can be found everywhere. Although the solutions are different regarding the administrative organs:

-the temporary administration is either the part of the program, or it is the task of the existing administrative system to administrate the programs,

-or the institution fits into an independent agrarian structural policy.

18. On the basis of the MVA Order the following changes are reasonable in relation to the System of the Rural Development:

a. The Governing Authority being responsible for the entire operation of the rural development should be separated from the Agricultural and Rural Development Ministry not only in respect to the authority but also organically. By this the changes and redistribution delivered by the Ministry could be avoidable.

b. The activity of the monitoring commissions must be made open to the public, its reports must be accessible on the website of the organization, as a result of these the regularly changes of the programs and its reasons could be followed by the users too.

c. The Rural Development must be decentralized on a large scale; the central organs should be separated from the authority dealing with the operation of the production courses, its differing tasks carried out in the regional agencies should be delivered in a different organization system.

19. The most important activities in relation to the Rural Development in the future are the following:

a. The creation of a broad *Rural Development Act* with a codex nature on the level of the material and procedural integration.

b. The creation of *special public contracts* in relation to the tasks of the complimentary organs in the Rural Development Act.

c. Beside the maintenance of the revision and the decision's double nature the participation of the NGOs should be guaranteed in the decision making process.

d. The possibility of each subsidy decision's revision by a court should be assured.

e. The main role of the Hungarian Rural Development Office should be terminated and the creation of the regional rural development plans and executive strategies with regard to the natural and economical characteristics of the rural area is essential.

#### **IV. LIST OF PUBLICATION IN CONNECTION TO THE THESIS**

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