



Bringing Organisations & Network Development  
to higher levels in the Farming sector in Europe

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prepared by Kislépték (KLT)  
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## EXECUTIVE SUMMARY OF THE REGULATORY FRAMEWORK REPORT

This report was prepared under BOND Project<sup>i</sup> and seeks to present the most relevant best legal practices in the particular areas, discovered with cooperation and assistance from the partners, in the hope that they will be useful to facilitate collective actions, and to ensure access to sustainable markets for the small farmers. in the different European countries in their diverse legal systems. These practices and measures might foster to formulate proposals through European examples to overcome various legal barriers that can be used by farmers and NGOs to help them in their daily lives and support small scale farmers and ensure food security throughout Europe.

The report examined regulations on trading and sale in agriculture sector, on defining agricultural activity as well on collective actions, including cooperative rules. In some cases, agricultural taxation rules as determining factor of cooperation were also revised. Competition law is treated as a separate subject but is of crucial importance when promoting collaborate action among farmers.

The expressed objective of the report is to examine supportive regulatory solutions from the prospective of small-scale farmers. The reason for this is that only those individual farmers who are able to operate and grow economically will be able to collaborate with other farmers. These best legal practices enhance farmers for collective actions through these legal best practices, enables them and their organizations to be actively involved in decision-making processes.

This does not aim to provide a detailed and comprehensive description of best legal practices pursued all across the 28 EU Members States. Rather, there were assessed well-functioning systems as experienced by the BOND project partners participating in the implementation of the project. In a number of cases, there were received legal texts in various Member State languages. As it would have been difficult for the target group to construe these texts *verbatim*, a description of the essence of these texts was provided, with a description of the particular cases in an understandable form. There is duly provided information about the sources consulted and the link to laws and decrees, in case someone wishes to go into greater detail with legal assistance and wish to include them in proposals in the course of furtherance of their interests locally. In collecting best practices, there is an emphasis on issues and factors in regulations of their assisting and supporting nature, proven useful and supportive in practice, rather than making recommendations on applying laws and decrees in full in the particular context.

With this in mind, the study seeks to ensure that readers with a different interest in law find the knowledge they need. Thus, the executive summary of the study is a brief summary of good practices that have been identified. The second part of the study describes the best practices that have been introduced in more detail. Finally, a detailed description of particular rules, in some cases an extract, of the discussed legislation is also part of the deliverable form of the study which can be found in the website of Kislépték ([www.kisleptek.hu](http://www.kisleptek.hu)) under Publikáció/BOND Publikáció. Here, those lobbying for more fostering national legislation can also hopefully find ammunition for enhancing the regulatory framework of small farmers and their collective actions in their home country.

## **Recommendations**

- One of the most relevant condition of sustainable farming is diversification which may be achieved through supportive taxation system which fosters food processing and activities related agriculture and food processing such as agro tourism and social farm services.
- Family farms have a long-term production perspective. This makes it easier for young people to stay with or return back farming, ultimately the generational renewal. Generational renewal and modernisation, both are CAP 2020 objectives, they may be supported if inheritance and land regulations support young farmers access to land and provide favourable conditions for start-ups.
- Short food supply chains are effective tools for ensuring the access of small farmers to markets and capital though their detailed rules are not properly developed in many EU Member States. Therefore, it is necessary to articulate EU and national regulations, which encourage the creation of short supply chains, innovative trading rules, based on European good legal practices. It is highly important that the EU promotes creation of innovative short supply chains in the future. Nevertheless, proper measures are necessary so that regulations favourable for short distribution channels are not overridden by any free trade agreement neither on EU level, nor on national level.
- There are new forms of collective actions, beside the traditional formal operation in cooperatives, which operate in many cases informally. Regulations for the operational and subsidising frameworks of these innovative forms of collective actions is recommended.
- The distinction and differential taxation between agricultural and non-agricultural activities (regarding different diversified farm activities) makes it difficult for the farmer to comply with tax administration. In order to resolve this obstacle, we propose to allow declaring incomes derived from related or supplementary to agricultural activities within the agricultural activities up to a certain but fair amount.
- We propose to establish a special EU level working group for the integrated management of the legislation and the preparation of guidelines for the marginal, handcraft and diversified small scale production as well as their professional representation within the European Union Council or in its background institution (through SCAR subworking groups, EIP AGRI working group, ENRD, etc.).
- Guidelines and repository of good practices should be prepared by European Union and Member State accordingly (published through EIP AGRI and ENRD network) which support Member State legislation and implementation in the government administration and authorities:
  - flexible hygienic rules set out in the Hygiene Package has to be collected in one guideline which then encourages authorities to enhance the application of this flexible hygienic rules;

- a guideline for creation and operation of mobile food processing operations and mobile slaughterhouse under lighter hygienic and administrative regulations;
- a guideline on public catering procurement and public catering services which includes environmental and social aspects in evaluation;
- a guideline on utilisation of animal by-products for handcraft purposes on local level (e.g. raw wool processing by felting or weaving, or production of cosmetics from food raw materials, such as cucumber, milk, honey, etc.);
- Recommendations on planning Common Agricultural Policy after 2020
  - supportive measures in CAP II pillar to foster collective actions of small farmers (where eligibility criteria are the status of being the smallest farmers) and the development of territorial (short food) value chains;
  - the “cooperation measures” applied by certain Member States in the Rural Development Programme of 2014-2020 should be broadened for participates of short food supply chains, small farmers and social farms (e.g. The Netherlands and EIP Ireland);
  - in the case of investment measures, we propose to apply social and environmental positive effects in the evaluation beside competitive aspects (such as compliance with environmental sustainability, social common good, community development, ethical behaviour);
  - support diversification of farming activity, including social farms services into measures supporting viable rural living;
  - maintenance of the possibility for a lump sum pre-finance support for small farms in the subject of farm diversification, small farm investments, food processing and selling facility development of social farms.

### **Summary of legal issues and best practices**

1. A business (in our case agricultural) activity is not sustainable, ultimately does not provide a proper living if its operational costs are larger than its predictable income. Proper living depends to not only the volume of the income but to a large extend, especially in the case of small-scale production, on the volume of the operational costs, taxes, government support and social security contributions. In many cases, the costs are too high since small individual farmer have to comply with such hygiene, environmental, etc. standards as large-scale farmers together with the obligation in financing plant establishment (v. industrial level) infrastructure and investment that small volumes do not allow. During our survey (on national workshops, with questionnaires on regulatory framework) our hypothesis was proven, as **flexible supportive regulations** on defining agricultural activity, for start-ups, tax facilitations, fostering collective actions, special regulations for family farms, **indeed, ensure the economic and social sustainability of farmers.**

2. **The distinction and differentiated taxation of agricultural and non-agricultural activities entail the application of several methods and records at the same time, which complicates tax administration for the farmer.** This has been solved in the Austrian taxation system which allows declaring secondary and supplementary activities as agricultural activity up to a certain amount (33,000 EUR). It is also facilitated by the tax administration that in Austria, as well as in Romania, the spouses can jointly file their tax returns.

3. The agricultural activity is carried out on small family farms in most European countries, **we therefore consider it a best practice that in many Member States taxation is related to the economic size of the farms.** In many of the examined Member States tax systems acknowledges a certain size/volume under which there is no tax. It is usually determined by a certain amount of turnover, or income below which no income tax imposed. For example, in Hungary below 12.700 EUR; in Romania, up to the limits specified in kind for each product line; in Slovakia below 4,035 EUR; in Austria below 11,000 EUR; in Croatia 11,400 EUR, Norway 6,850 EUR. **However, great care must be taken in determining these thresholds, as farmers might be deprived of support and agricultural credit and financing opportunities because of the often-enticing tax breaks.**

4. Special forms of taxation typically are connected to private person taxation, but there are other forms. We found a good example for the **taxation of small businesses (in some cases for start-ups)** called the micro business tax, which may also be applied to agricultural incomes in Romania and triggers corporate tax. The basis of the tax is the net income and the rate, depending of the number of the employees, does not exceed 3 %.

5. The first level of cooperation, the very basic but important one is the **family**, the cooperation of the family members. We have seen practices in several Member States which encourage family farm activities for example in Croatia, Portugal, Austria and France. These regulations set out rules of the family ties, the management of the joint ownership, the inheritance, the types of agricultural activity that may be carried out, and the rules of subsidies or tax allowances. However, as a result of our survey must be recognised and the results of the project workshops that **a too narrow ruling on permitted quantity of production or income force family farms to stay in the amateur (i.e. only limited to the sale of surplus which is not enough to be economically viable) agricultural activity which is the biggest barrier for their development, such as in Hungary or Portugal.**

6. One of the greatest potentials for access to market for small farmers is the short food supply chain which developed significantly in the past years all over in Europe. **However more studies (EIP AGR Focus Group, 2015, JRC scientific and policy reports, 2013, SKIN report 2017.<sup>ii</sup>) pointed out that the definition of the short food supply chain is not clear neither on European Union nor on Member State level, so the potential of diversity and innovation in value chains cannot be exploited.** The community supported agriculture, online sales, collective trading, cooperative trading are all such collective actions which serve the economic sustainability of farmers. **Although short food supply chains and sometimes related concepts are regulated in most of the countries examined, but neither the detailed rules for commercial forms are defined in law** (such as public procurement, forms of retail, their actors and place, delivery of the products, certifications, use of cashier, waste management) **nor the forms of intermediary and persons.** This means that farmers may not use these new innovative forms of values chains and authorities may not interpret. However, it can also be stated that in principle support exists in most countries. There are best legal practices in Norway and Italy where cooperative is not deemed as an intermediary in the short food supply chain despite cooperative purchases products of the farmers and resell as a form of collective action. We have another best legal practice from Valencia where short food supply chain and its actors were defined (decreto 201/2017 and decreto

134/2018) provides hygienic relief for such small-scale farm processing which is local and serves social and environmental public goods.

7. Within access to market, the **definition of food processing intermediaries has been identified as a particularly important issue** in several national workshops and in the responses to general questionnaire. It is often unclear, and authorities manage it also unclearly whether processing can be interpreted as an intermediate actor or as a single service. The French processing point collectively managed by farmers, which provides services to the member farmers, thus farmer may sell that processed product as his own processed product. In such case it is not necessary to have high costs investment and comply with required professional qualification on individual level. The collective processing point will remain in small processing plant category from hygienic standards and this allows a flexible small-scale farming production based on local resources in cooperation of more farmers.

8. Often mentioned **problem is the lack of differentiated regulation for small, medium and large producers, small and large food processors and rural service providers from large scale industry regulation.** There is no small processing plant regulation both in the primary and processed production (small bakery, small butchery, jam production, artisan cheese makers, etc.), which could operate under regulation (hygiene, administration, professional qualification, infrastructure, environmental protection, taxation, etc.) tailored to its size and economic potential. The lack of such regulation substantially affects food producers in social economy.

9. Public catering is a strong market potential in short food supply chain for farmers in several countries. **Public catering is market potential and an economic development tool based on local resources and has special importance in social economy.** Public procurement may well use environmental and social principles such as waste minimisation, use local resources. According to 2014/23/EU and 2017/24/EU directives public procurement has started to cover additional policy objectives, besides economic aspect, such as environmental sustainability, social inclusion and the promotion of innovation. In order to promote this objective social and green public procurement guidelines were already issued for construction, furniture production and purchase, etc. Nonetheless **there is a need to have guideline in public catering procurement which have more focuses on the environmental and social objectives,** and that would bring to the forefront the aspects of agroecology and considerations of locality or regionality. It is worth to mention the best practice of the Sain-Laurant-des-Vignes municipality presented in the French workshop. They already work to achieve the national goal (amendment of article 11 of the law of Agriculture and Food) that 50 % of the food in public catering should be from ecological farms by 2022. Local farmers provide 80 % of the food in public catering in cooperation with CUMA in that small village, which requires a substantial organisational work and a strong alliance with civil partners, which actually is rather a challenge in other settlements where the strong civil support is missing. The other best legal practice is from Valencia where regulations on public catering and social economy applied parallel as to serve public good together with the social and environmental sustainability however it takes rather big administrative burden on the parties.

10. European countries apply the general rules under the Co-operative Principles with minor differences. We bring best legal examples from Norway, France, United Kingdom and the Netherlands. The cooperative principles and operational features and benefits thereof are not known or commonly accepted in Central and Eastern European countries. Therefore, the knowledge transfer on cooperatives and other forms of collective actions (producer group, other legal forms) at Member State level is needed. The form could be the **cooperative, cooperation extension services and mentoring**, which would assist and advise on foundation of cooperatives and its daily operation and provide start-up and follow-up business and legal services (business plan, internal rules, profit distribution, cooperative mutual help and assistance, methods on the exercise of the voting rights).

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- <sup>i</sup> Bringing Organisations & Network Development to higher levels in the farming sector in Europe (BOND) ([www.BONDproject.eu](http://www.BONDproject.eu)) which received funding from the European Union's Horizon 2020 Research and Innovation Programme under Grant Agreement No. 774208
- <sup>ii</sup> Kneafsey, M., Venn, L., Schmutz, U., Balázs, B., Trenchard, L., Eyden-Wood, T., Bos, E., Sutton, G. and Blackett, M., 2013. Short food supply chains and local food systems in the EU. A state of play of their socio-economic characteristics. JRC scientific and policy reports, 123.
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