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## **About the introduction of the SPS in Hungary**

Twelve yellow stars in a circle on a blue background. Say what future you will bring us? For the past 22 years have been a period of constant adaptation and downswings for the domestic agriculture. At the beginning of the political transition a mistaken and partial compensation took place, the market was opened for the free movement of capital, controversial, less than optimal structures were formed, regularly recurring disputes occurred (individual and family farms, corporate bodies). Finally, the 2004 EU accession ruffled the feathers. *Cuius regio*, who owned the land. I deliberately do not quote more the old controlling sentence of the first sentence of the Dutch Wars of Religion, which nowadays might continue differently from the perspective of farmers continues: "whose is the support? Or shall we introduce, or not apply the SPS?" We are at a crossroads. The above two foreign acronyms might evoke several ideas for many people. On the one hand, it has a complex meaning which is a challenge both during the creation and the application of the law, on the other hand it arouses public and scientific interest. Others may remember that only compensation sparked such fierce debates the SPS and SAPS support system. In agricultural law and agricultural policy it is the third major issue to be solved along with compensation and the ban on land purchases by foreigners. There are those who seem to think that the debate about the topic of this study was ended by the resolution 142/2010 of the Constitutional Court. The aim of this study is to prove this opinion wrong. Due to the changes in the agricultural policy of the EU taking place in 2013, the question has still not been resolved in terms of national strategy. It requires immediate comprehensive impact analysis, and a single decisive action and resolution in agricultural policy instead of division.

At the same time, the question has arisen whether the two systems, the products of the human brain, fit changing our world at all? Do its aims and interests match those of the Hungarian legislature? When two aid schemes were invented and worked out, what beneficiaries were they intended to benefit? It raises the idea of a review of the support systems' schemes. What happens if these systems have become obsolete after a period of time in agriculture, and therefore have no benefits anymore for the agricultural market and specifically, the land market. The effects on land prices is also unclear. The issue of the introduction of aid systems also raises the economic question whether they advance or hinder agricultural production, increase or decrease in the yield of agricultural products?

The above questions require multifaceted analysis, which will take place in this study. In order to understand the actual intention and behaviour of the legislators, first one has to examine the vested interests behind the debate about the SPS system, the opinion of the President about the SPS, the position on the Minister of Agriculture and Rural Development, and how the passage of time and changes in community law created a new situation.

### *I. Background of the introduction of SPS*

The EU's new fiscal period began in 2007 and ends in 2013. During this period, according to the optimistic view, Hungarian agriculture has unprecedented access to funding on

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the condition that the direct payments needs to conform to both the institutional and procedural EU requirements.

Conditions imposed by the EU stem from the period of the 2003 agrarian reform, and it is important to consider who, which member states enforced their interests, and what objectives shaped the established common regulations. A short, concise review of international literature is therefore necessary.

I.1. The October 2002 agreement on the long-term funding ceiling anticipated the reform of the Common Agricultural Policy. The main net contributors to the CAP, in particular Germany, increasingly insisted on the idea that the exclusive financing role of the EU budget needed to be reconsidered. The major beneficiaries of the CAP, such as France, rejected this proposal. The lobbying member states reached a compromise in one regard: the key to maintaining the long term financing of the common agricultural policy would become the increased separation of production and subsidies. In the agrarian reform negotiations, which started in mid 2002 and lasted a year, the objective was to separate the production and the subsidies, to simplify regulations, and to better enforce the interests of consumer demands (including quality production, food safety, environmental improvements, increased role of rural development, enhancing the competitiveness of agricultural production, meeting WTO requirements, and maintaining agricultural budgetary discipline.) Along the above mentioned objectives, in June 2003, an agreement was finally reached on an agricultural reform with four priorities.

I.2. A consolidated economic support system was set up, based on partial separation of production and support, known as SFP (Single Farm Payment). The most important point of the system is that the direct subsidies, which had previously been provided on different grounds, would be paid in lump sums to each farm, the amount of which would be calculated as a flat rate of the sums paid between 2000 and 2002. The direct payments are separated (decoupled) from production, so the producer and the product are not supported. In practice, however, only partial separation was achieved, as the member states were given various flexible assessment options to determine the degree of application of separation on different products.

I.3. Modulation, or the reduction of direct payments. This means that direct payment sums over EUR 5,000 per farm were reduced by 3, 4 and 5 per cent in 2005, 2006 and 2007, respectively. Although the Commission proposed to maximise annual grants to large farms (it would have been EUR 300,000 per farm), the proposal was not accepted.

I. 4. Payments would be made on the condition that environmental, food safety, animal and plant health, animal welfare and other standards are complied with (cross-compliance).

I.5. Increasing funding were provided for rural developments, especially to fulfil food safety, animal, plant, animal welfare requirements. The implementation of the new reform, the decoupling of direct payments and production began in fact only on 1 January 2005, starting from the concept of the SFP. The Single Payment Scheme (SPS), accepted in resolution 1782/2003/EC, and its current modification (73/2009 EC) constitute the EU's agricultural support system. Member states were given the option to pay subsidies according to the old system until 30 December 2006. During the the selection of the model, the member states could choose the calculation of subsidies and the system of their operation, within the limited room for maneuver in national legislation.

I.6. The old member states could choose 3 models of direct payment: historical based, purely regional, and a mixed, hybrid model. The fundamental difference between the versions is the benchmark for eligibility. The subsidies are provided either on the basis of the previous performance of the producers, or based on regional averages. These three features of the model can be summarized as follows:

I.6.1. The historical SPS model is characterized by eligibility for subsidies depending on the average land size cultivated over the reference period. The amount of subsidies is determined by subsidy reference value, which is the sum of all the subsidies received by the producers during the reference period multiplied by the amount of land eligible for subsidies and cultivated during the same period. In order to receive the subsidy, the active producer must be historically eligible for the national force majeure reserves. All agricultural areas are eligible, with the exception of plantations. A unit of eligibility is calculated by dividing the specific amount by the size of the eligible area in the reference period. Eligibility is activated each year in such a way that the size of the area must match the eligibility. The producer can produce any crop, including previously unsupported plants, such as vegetables, including potatoes.

I.6.2. Among the main characteristics of the area-based or regional (flat rate) SPS models, it should be highlighted that the amount of entitlement is not determined on the basis of individual producers, but on the average of all the producers in the region. The cumulative regional publication is divided by the amount of land eligible in the year of the SPS's introduction, and the result is the value of the unit of entitlement. This model does not take into account the type of agricultural activity conducted by the plant, what sort of subsidies it has received and what production related costs it has. As a result, all entitlements have the same amount on a regional level. The reference amount is therefore based on the regional flat rate sums during the reference period. The entitlement may only be activated on the condition that the producer must be an active producer at the time of the introduction of the SPS. The eligible area is the same as in the historical model; the only difference is that the special eligibility can be given to areas specialising in traditional fruits and vegetables, such as potatoes. The unit of entitlement is calculated by dividing the regional sum by the area eligible in the first year of application of the SPS, and every producer gets their eligibility on the basis of the first year. Activating the eligibility is done the same way as in the historical model. The farmers can produce as much crops, vegetables, fruits, potatoes as the eligibility allows them. Due to the flat rate subsidies, the regional model does not accentuate the differences in the income of the farms, as the best and worst performers receive the same subsidies. At the same the flat rate subsidies also reduce administrative tasks. The units of premiums caused by the distribution effect in this system reduces the attrition of uncompetitive producers.

I.6.3. In the so called hybrid model, the reference amounts are regional flat rates for certain sectors, and in other cases they are historically based unique amounts. The condition of activating the eligibility is being an active producer at the time of the introduction of the SPS. The hybrid model is basically a combination of the two basic models. By combining the advantages and reducing the disadvantages, the member states can determine the amount of eligibility by combining (where applicable) the historic and regional eligibilities. Several versions of the hybrid model can be constructed, which can be divided into two categories: horizontal hybrid and vertical hybrid. In both cases, for all producers who are producing in the region, they ensure them a flat-rate payment entitlement by regional upper limit of the

percentage. A hybrid model offers the possibility that funding allotment area-based grant and historical elements- can change over.

I.6.3.1. The horizontal hybrid, the unit value of payment entitlements shall be added to the amount that an entity would receive under the historical model it. This value is added only in proportion to the remaining part of regional threshold is met. In the case of the hybrid vertical extent of the rights of a unit increase 100% percent of amount to which farmers are entitled to support under the existing historic model. After this brief mapping of the SPS model in terms of three main position on the basis of the literature shows that the method of allocation of entitlements affect the value of the entitlements per hectare because now the unit of reference amount is different and the the unit of the entitlement is different as well. After the detailed presentation of the operation funds of the SPS, it is noted that the literature has more detailed analysis,<sup>1)</sup> The SPS, as the production is completely separated from the fixed allowance, is a key element in the control system of the CAP.<sup>2)</sup> Member States' acceptance of the SPS contributes to the Union provided the opportunity to link the partial production. In the context of the SPS, according to Agenda 2000 grant funding system. they allowed to continue define condition for payment of production , in case of some payment entitlements. Through the partial separation, a derogation possibility has been granted, which was validated to protect the national and regional interests. The crop sector, the derogation option to be exercised waffles 1 (cereal crops area payments up to 25% up or the case of durum wheat in traditional production areas paid area additional funding up to 40% of the seeds of direct subsidies to 100% of the 2006-2010 tobacco premium of up to 100 % of Hops support maximum of 25%. in the livestock sector, the calf slaughter premium 100% in the beef cow premium of 100% of the adult animals go to slaughter premium of 40% and a special cutting beef premium 75 %, and the sheep and goats after the direct grants of up to 50% in less favoured areas provided additional transfers together. EU restricted in a Member State the possibility that the SPS (single farm payment scheme) under full use, as they the following regulations are tied. From the financial envelope only compliant direct payments to be paid, to the extent of freedom with respect to the State, that the components of a Member State may apply. The financial envelope content in brief available amounts, are determined by the Commission. On the other hand a member of EU shall comply with following Community "game" rules. The Member State shall accept that payment entitlements may transferable only to another farmer who established in the same Member State. In the case of actual or anticipated inheritance, the payment entitlements could be transferred to active producers who produces in an another Member States, however, that right only could be used in that Member States, where the producing is happen.

I.7. Bases detailing the operation of the SPS , we can switch the main elements and relationship analysis of SPS. The old Member States from January 2007, had to be applied to the new system. Ten Member States have shifted into new system in 2005: (Austria, Belgium, Denmark, the United Kingdom, Ireland, Luxembourg, Netherlands, Poland, Portugal, Sweden) and an additional five old Member States (Finland, France, Germany, Greece, Spain) in 2006. The old Member States could choose among based on direct payment history, purely regional and hybrid models. Application of the regional model was not compulsory. In order

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<sup>1</sup> Popp.J-Udovecz G. (2007) Hungarian Agriculture and EU Accession, Paper prepared for presentation at the joint IAAE-104th EAAE Seminar, Agricultura Economics and Transition: What was expected, what we observed, the lessons learned, Corvinus University of Budapest (CUB) Budapest, Hungary. September 6-8, 2007, p. 10

<sup>2</sup> Tanka Endre (2008): Előadás: Az Egységes Támogatási Rendszer tervezett bevezetése (Az Országgyűlés Mezőgazdasági Bizottsága) 2008.

to obtain direct payments agricultural producers need also eligibility and the eligible area. The acquisition of entitlements, and abide, the definition is limited. The supportable area is limited by number of entitlements and respecting the cross-compliance rules. Validating the support policy of Member State, It has National reserve, with only negligible value. In the direct payments applies a lower and upper limit, and the payment is in addition to modulate. Direct payments are limited by national ceiling (top up). From production to capture only partially exercised in practice, according to the national interest. To fulfil the total amount of payment, it should apply cross-compliance rules and should be managed accordingly. I would like to notice, connection with above, in the practice the Integrated Administration and Control System (IACS) frameworks bring to life all that SPS administrative application. The literature notes that the IER system based on records of the introduction, it is not made a public impact assessment in Member States. From the above it can be seen, as the literature is unanimous positions found the European Union opened a new market by, the payment entitlements and the introduction of a new concept of controlling. The circle of the part of the segmented market and market players were solely limited to land users in practise. As far as the concentration of support concerned, the literature found that, among dependent on support weight withdrawals would encourage the introduction of the lower bound, functions as the upper limit of the modulation would obstacle aid concentration. The face value of the payment entitlement may vary significantly between Member States depending on the type of the described above SPS model. Changing of the execution model is the possible for Member State, it may result as approximation of specific value of the payment entitlements, because the integration of the decoupled subsidies depends on the decision of the Member State

#### *I.8. The relationship between SPS and the new Member States*

European Union gave an opportunity to new member countries to pay off direct agricultural subsidies in simplified system for agricultural producers, instead of the SPS. SAPS was designed in the accession negotiations, to facilitate the integration of the complex workings of the CAP. (SAPS) (Simplified Area Payment Scheme – repeated after extra time – up to 2013 the EU permitted for the new Member States. System had been introduced by 10 member countries until 2009, however Malta and Slovenia decided that system, which was applied by the old Member States. SAPS, which introduced for the new Member States, has aim no more is that, EU can offer opportunities of simplified direct payment for the new Members, and thus, EU can facilitate the accession and membership, during its first years of preparatory work, and reduce its cost. Meaning of the SAPS, there is no obligation of having rest area, and the payment is not an animal or per tonne of production is made on the basis of the amount specified, but only per hectare of agricultural land. According to system, single payment scheme involves per hectare of eligible agricultural land, up to the national ceilings, which are decided in the Accession Agreement. The SAPS is essentially a separate support system, in which there is no obligation to produce. The payment is based on the Commission's establishing national financial package. The SAPS amount per hectare is calculated by the relevant Member State by dividing the national financial package for the agricultural area. Except Slovenia and Malta, all of the new Member States in 2004, on accession chose the support form of the SAPS.

#### *II. SPS and the Parliament*

It was a sharp debate about the introduction of the single farm payment scheme and operation of the proposed Act in the National Assembly. The divergence of views is basically arose that correctly determined that the historical base year to be 2006. During the parliamentary debate on the historical base, counter-arguments about the historical base of the raised position is that the introduction of SPS violated the constitutional right to property, as well as retroactive legislation is breached (2006 bases of legal certainty The National Assembly 2008. session held on 20 October 205 votes to 163 no votes against, with 5 abstentions, accepted under the single farm payment scheme and operation of on T/5883. Bill (hereinafter SPS Code). The Speaker of The National Assembly sent to announce the SPS Act in 2008. on 28 of October to the president's office. Against The SPS Act, President of the Republic expressed constitutional concerns, so it is not signed, but he initiated in 2008. November 12 at Advocate - 26 of the Constitution § (4) of that virtue of the authority - the Constitutional Court on the 1989th XXXII. Act (hereinafter referred to as the ACC.) 1 Of § a), 21 § (1) b) and 35 § Act on the basis of the SPS preliminary constitutional review. The petition stated that the Constitutional Court's practice is treated as an absolute limit on the prohibition of retroactive legislation: The legislation for the period prior to its publication does not impose an obligation or comply with the law does not define as a retroactive levying illegal. In the opinion of the President of the Republic, legal security in relation to the change in the law is ultimately nothing more than legitimate, gave confidence to protect the continuity of the law, promising because of the significant legal entities established or the decision could be based. As stated in the petition, as enshrined in the Act § 15 (3), a) is contrary to the Constitution, § 2 (1), because sufficient public interest in the absence of a less favourable legal situation for farmers who in 2006 was therefore commenced their activities, or increased profit by sale or rental of their cultivated area eligible for aid. In the petition tied to the passage of time the public interest foundations which shows that if the legislature more time for the introduction of the SPS, the landowners, such as entities, by providing sufficient transitional period could reconsider their contractual relationships, and, its they could adapt them to the changed circumstances, for example they can modify the contents of leases. The transition time for preparation, According to the motion of the Constitution follows from the principle of legal certainty and protection of legitimate expectations, that the interests of landlords and tenants concerning legislation which would constitute the essence of the applicability of Community law.

### *II.1. The Counter Opinion of Minister*

Rural Development Minister expressed a dissent opinion total of three letters, against the vision of the President of the Republic, which were sent to the Constitutional Court. The dissent succinctly built on the following considerations: On the one hand, questioned, that the introduction of the SPS Code and, within a matter of historical connection with the base, wonder whether there is jurisdiction of the Constitutional Court? On the other hand, it tentatively stated, that if the Constitutional Court were to hold that the jurisdiction exists, then the legal position should based on essentially the Community legal context. He asked, that any delay in the decision of the Constitutional Court does not mean restrictions on the exercise of legislative power under Community law. To do this, a question related to that is the subject of the grant application no later than 15 May of each year shall be submitted by the underlying legislation is before 15 May to enter into force at an earlier date. Mid-March 2009, the Minister informed the Constitutional Court by letter about the adoption of a Commission Regulation, which for the new Member States, explicitly allows the introduction based on the historical basis of SPS with these conditions: the base date can be just past and

Member State can decide about the base period (one year or more). The Constitutional Court in 2009, on 3th of November, heard the Minister of Agriculture and Rural Development Minister, József Gráf in Plenary Hearing the Minister explained the following, to the Constitutional Court. Among Policies of the European Union, the agricultural and rural development policy has a one of the feature, it under the control of the EU's competence. He referred to the contract of the EU. 38. article (1), under which the EU's common agricultural and fisheries policies are carried out. He referred to the contract of the EU. 39th draft Treaty, which sets out the objectives of the CAP, cited 40 of article, which discusses the tools of the CAP. Centralized control of the EU Council, the Commission only has the power of the Common Agricultural Policy objectives and tools for determining and approving, including both national and Community funds provided for agricultural subsidies. The substantive level control regulations primarily and directly applicable in all Member States. He drew the Board's attention to the Constitutional Court that the laws of the Member States of the Community do not require alignment, but also to implement a Community act. Thus the regulatory sovereignty of the Member or Community financial instruments express authorization is based on, or associated with execution, organizational and procedural issues may be aimed at. The national regulatory autonomy is not absolute, because the principles laid down by Community legislation, the conditions to be achieved by all means be considered. Another characteristic is that if the idea of its own agricultural policy to govern the funds from the national budget, it is only part of the Community legal framework, for example. called or de minimis block exemption cases covered, as well as adequate prior notice or approval before you can do it, and after the announcement of both the Commission and any Member State may indicate the objections against the proposed measure. He informed the Constitutional Court, that if a Member State is not specifically exempted from the notification requirement of agricultural policy measures require, it is only a special, so-called for several months, must do so within the framework of the notification procedure. The Committee make an individual decision about The propose of the Member States. The Minister called on the Constitutional Court's attention to the dangers of launching infringement procedures. That is, in the case of a Community act, the Member State regulatory obligations or administrative measure taken to require that the deadline is not done, of subsidies in the form of imposed financial sanctions, the EU Member State to initiate these proceedings and is not relevant to the that failure was due to what reason. The Minister of motion deduced that only 2006. historical base year without SPS can be constitutional. The view that the President did not rely on motion due to the fact that Community law, the seventeen countries of the EU have historical bases operates under the SPS system. He drew attention to a presumption: In the event that the competent body of the EU formally exercised its power to declare. He also supported the presumption by an example: In his view, SPS Law § 15 paragraph 3. a) which was solicitous by President of Republic, is accordance with Council Regulation 1782/2003/EK 71 d (3) of the objective criteria, and those and do not lead to distortions of competition and the market. According to the ministerial position, Presidential resolution does not take into account SPS statutory authorization, which was given into disposing Minister of Agricultural Policy Articles 21 § 2 (§) p) and Additional historical base eligibility on 160/2008 (XII.18) FVM Regulation, which it would settle disadvantages from the historical base 2006

### *III. Relation of Constitutional Court and the Sps law*

Majority decision of the members of the Board: About question of legal certainty, the Board emphasized that, it does not in itself contrary to application of the historical basis of

legal certainty resulting from the principle of protection of legitimate expectations. Not even the fact that the base year history, and it is not in itself violate the legal certainty that this past 2006. calendar year. No change in the legal environment, economic interest alone will not necessarily protect the Constitutional Court. The property shall not prejudice the right of self-counterfeiting-growing landowners' rights, legitimate expectations without hurting producers, but only in respect of the national supplements. The decision is explained in detail in the second shortcoming is contrary to the Constitution § (1) a guaranteed rule of law principle that the entities concerned - producers who have a historical basis right after creating acquired or increased SAPS area such as that in 2007 and 2008, a new grazing areas have been announced - the SAPS entitlements earned in their unit value is a principle or a significant part of the new rules may lose a potential effect. The unconstitutionality of the body that can be eliminated in several ways. In the previous system, the legislative support for his consideration of the legitimate expectations of producers define the framework in which the Minister responsible for agricultural policy decision, but other than that the SPS Act (2006) the historical basis may be used.

### *III. 1. Holló András Dissenting opinion by the Constitutional Court, which Bragyova András and Miklós Lévy joined*

He does not agree with the operative part of the majority decision, and in his view, the introduction of the single farm payment scheme and operation of the National 2008th 20 October meeting, adopted on 15 of the Act § (3) a) of the unconstitutionality of the decision, the reasons can not be estimated. He explained that the majority opinion adopted 2010/142 Constitutional Court Decision on SPS Ordinance derived, but in the unspoken, protection of legitimate expectations (promissory note) in support of its legitimate constitutional requirement and a significant loss of principle to possible view determines its violation. In his opinion the Constitutional Court exceeded its constitutional protection function with the broad interpretation of protection of legitimate constitutional requirement, and it can intervene in situations of economic policy. The view that the requirement of legal certainty, protection of legitimate law a broad interpretation of the SPS can not be deduced. In his opinion does not follow from the requirement of legal certainty, the Minister nor a its mandate unconstitutional. The control system of agricultural subsidies under the provisions of the Constitution cannot be considered the exclusive legislative matters. It is the legislator's subject of free choice, which lays down rules to determine which rules and laws empower the government or the minister. The authorization given to the Minister 1 of the Act on § (5) the authorization would not be regarded as unlimited, seriously limit the possibility of the Minister's decision by the European Union's Common Agricultural Policy of the acts, such as the law underlying the SPS regulation and national regulation 73/2009/EK replacing the ceiling, the use of the national reserves and the development of the contract).

### *III. 2. Dissenting opinion by László Kiss*

Laszlo Kiss by constitutional court partially dissenting opinion, which was joined Levay Nicholas Constitutional Court stated that the previous practice of the Constitutional Court or the only immediate or short preparation time, next year or forfeited restricted permissions applied. He drew attention to the EU's SPS Regulation which was interpreted by Constitutional Court of 2010/142 Decision, read in accordance with Community law decision in principle of retroactive legislation implements without having to be an affront to the



Constitution. His opinion can be summarized as follows: According to his view, the protection of legitimate expectations, which does not benefit from the protection of fundamental rights, cannot be based on assumptions. In his view that it is "well established" legitimate expectations of the majority decision is a policy decision is superimposed elected: In view of the fact that the motion has not relied on in *Malam partem* retroactive existence of a control, the motion because of lack of substantive constitutional relationship could have been dismissed. The reform package in 2003, although empirical studies show that it was the most current package, when they it accept, compromises weakened in many respects. According to international experts, the most controversial element of it is that under certain circumstances, in some cases, such as grain, meat, dairy sector, Member States got an opportunity to maintenance a significant proportion of production-related subsidies. What was most painful, they failed to impose a ceiling on large farms support. All of these threatened the upper ceiling of agriculture budget which was adopted in 2002. Member States got much more freedom in different forms of funding for maintenance, which distorted competition. According to general view, impact on the land market of the SPS is that, among land market of development of Member States, which introduce the system, there are significant differences in proportion of the lease of land. Introduction of the SPS and the redistribution of income between landowners and land users land prices and through land rents it affects the land market transactions. According to the experience of the Member States adopting SPS in 2005-2007, subsidies from production disconnecting the least fertile land prices increased. The payment entitlements with newly leased areas rents have increased significantly. In the different hybrid models using Member States, the lower limit of the land lease became the face value of cross-compliance (cross-compliance) cost of a reduced eligibility. Introduction of the SPS did not achieve the desired effect, because the land-users' bargaining power could not be confirmed. The main reason is that, the payment entitlements were acquired largely by landowners instead tenants, hat the land prices and land rents increased equally. It makes difficult to entry of start up farming, and it limit the increase in area of working farms that, during they purchase entitlements exercisable grant will be shared between the old and the new owners. The introduction of the SPS Old Member States would land market did not reach the intended impact.

#### *IV. Whom interest, Qui protest?*

It makes difficult to enter for beginners, and it limits and increasing of the area of operational holdings that fact, during land buying, exercisable support will be shared between the old and the new owners. The SPS from new entry and sizes increase their operating efficiencies from the requirement due to the fact that the rationalization of production in itself lead to greater income. The income increases, the price of land increases. The speculation is the low value of the payment entitlements rise in confidence. The free sale of payment entitlements to SPS support is not capitalized in the price of land.<sup>3</sup> The distribution rights hinders the payment entitlements markets, which could lead to an increase in land prices. The face value of the payment entitlements between Member States depending on the model and applied SPS in a Member State is also significantly different. According to Analysts, substantial speculative effects may occur in case of low land prices and land rents, separate

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<sup>3</sup> Swinnen J.-Ciaian, P-Kancs A (2009) Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures Applied under the Common Agricultural Policy, Final Report, Centre for European Policy Studies, Brussels p. 318

land ownership and land use, the production and untapped reserves. By the introduction of the SPS, toolbox of new land policy extended with new elements. The introduction of regional model change bargaining power between producers, it create a new competitive situation, those whose have historical benefit, they try to make up their property, and those, whose have historical disadvantage, they are interested in acquired additional property acquisitions. The payment entitlements and the concentration of farms is facilitated that Member States may refuse payment for workers who in agriculture economic have activities only a small extent or who has not the primary occupation agriculture-facilities. The SPS is based on the functioning of the EU legislation in force for the time being 2013's warranty, so the common agricultural policy and the future of the SPS risks, uncertainties arising from the cost of entitlements are usually relatively low, moderate interest. In Hungary, there is high degree of concentration of land use. The management system is based on rent, but in individual farms the proportion of ownership is typical. (Leased land makes up only 26.5%). The land concentration takes place in private farms. The subsidies in excess of EUR 5,000 provided to domestic and EU plants are equal, (EUR 22.500 / plant), but the proportion of farms receiving such payments in Hungary is only 6.9%, while they receive 69.7% of the total direct subsidies. Based on land usage records, land ownership is fragmented and divided: in 2008, the average size of landed properties owned by natural persons was 9.4 hectares. This consisted of 4.4 pieces of 2.1-hectare parcels, while the average property size of legal entities was 259.5 hectares, consisting of 35.8 pieces of 7.2-hectare parcels. The proposed domestic SPS model is aligned to the existing land market conditions, it mainly serves the interests and promotes the improvement of large companies and individual farms, it assists their development. By the allocation of payment entitlements, it would provide significant potential tax-free financial benefits, which would incorporate into the price of the plants. In Hungary, the short term benefits of the introduction of SPS would favour land users, as the subsidy would not be capitalized in land prices. The SPS is actually about under what conditions 10 per cent of the agricultural population can obtain guaranteed intangible assets. A major shortcoming of the national land policy was that after the accession to the EU it did not consider the viability of small farms an important goal. From a professional viewpoint, the main dilemma of SPS is that in the historical and hybrid models the enforcement of agricultural policy goals impedes the structural transformation in long term, and subsidies are inevitably incorporated into land prices, which favours the land users. In The regional SPS model, however, only, the structural transformation can be promoted the long run, other agricultural policy objectives cannot be implemented. In the single payment scheme (SAPS) currently in effect the land use structure and the position of the farmers can be improved socially more justly.

#### *V. The mechanism of action of SPS in Hungary, based on literature:*

According to the positions elaborated in the literature, the institution of the SPS is a powerful catalyst which finishes the original accumulation of capital, and allows two-thirds of the land base to be taken into monopoly at a symbolic price primarily by the large-scale layer of agriculture, foreign and domestic capital companies, at the expense of approximately 1.8 million landowners. On a national scale 62 percent of the land and 69 percent of the arable land base is leased, and most of the 1.8 million lessors are proportional owners due to both political and economical compulsion, who, due to the constitutional omission of the state (partial restitution instead of total compensation), have been deprived for more than twenty years form naturally receiving their lands back. The concept of the introduction of the SPS reveals why the co-ownership share had to be freezed, and the bulk of it had to be returned to

its owner on paper more than 20 years ago.<sup>4</sup>The synergistically negative effects of SPS are cumulative: the employment contraction, destruction of small farms (distortion of competition), the permanent distortion of the ownership structure, the dominance of large enterprises, the destruction of villages, and the deterioration in rural quality of life. Thus SPS reinforces the monopoly of acquisition, as whoever acquires the subjective fledged support based on the 2020 European Commission Concept as the lessee or land user can dominate the land, the facilities and the entire industry, and they can displace millions of current productive employees from the agricultural industry. The SPS therefore favours a small group, which is supported by the literature as well. The subsidy entitlements are not awarded to farmers who exceed the viability threshold, so they cannot register themselves. Consequently, the introduction of SPS does not improve the competitiveness of the small scale family farms in the Common Market of the EU, but it favours the capital rich large scale land users of the EU 15 member states. It is no coincidence that the European Court of Auditors admitted in the 2011/5 EU resolution that the SPS favours latifundiums in agricultural economy.

## *VI. Summary*

Hungary originally planned to adopt SPS instead of the SAPS system, but the President referred the law introducing the measures to the Constitutional Court. Introduction of the SPS would have been possible in 2010 at the earliest. The President of the Constitutional Court did not make a decision in 2009. The government formally indicated to the Commission in August 2009 that it intended to adopt the SPS system in 2010<sup>5</sup>, but the introduction did not take place due in part to the lack of normative control.

## *Referenced Literature*

Alvincz J.-Mészáros S.-Popp,J-Spitálszky,M-Szűcs, I: A magyar mezőgazdaság helyzete, feladatai és esélyei az EU bővítés tükrében, Integrációs Stratégiai Munkacsoport, Budapest p. 127.

Alvincz J. (2008): Az Európai Unió agrártámogatási rendszere és a hazai földpiac, *Gazdálkodás* 52. évfolyam 2. szám, pp. 158-171.

Ángyán János (2008): A rendszerváltó reménységektől a falurombolásig : In Szócs G. 8 szerk) In: *Elárvult szabadság*, Harmadik Évezred sorozat, Kecskeméti Lapok Kiadó, Kecskemét p. 332.

Cianian P.-Swinnen J (2006): Land Market perfections and Agricultural Policy Impacts in the New EU members states: A Partial Equilibrium Analysis: *American Journal of Agricultural Economics*, vol. 88 no. 4, pp. 799-815.

Csáki, Cs-Lerman, Z-Sotnikov S (2001): *Farm Debt in the CIS*, World Bank Discussion Paper No. 424, Washington, USA, p. 140.

Czauner Pál (2009): *Védett földek, bezárt kiskapu a földpiacon*, *Népszabadság* 2009. okt. 12.

---

<sup>4</sup> Tanka: i. m. 2008

<sup>5</sup> [http://www.fvm.gov.hu/doc/upload/200902/SPS\\_tervezet\\_3.pdf](http://www.fvm.gov.hu/doc/upload/200902/SPS_tervezet_3.pdf).

Deininger K. (2003): Land Policies For Growth and Poverty Reduction, World Bank and Oxford University Press p. 292.

Európai Bizottság (2008): Jelentés a Tanácsnak a 2003. évi csatlakozási szerződésben a mezőgazdasági földingatlanok szerzésére, Brüsszel, 2008.07.16., COM (2008) 461 végleges p. 5.

Fertő I – Bakucs Z. (2006): Az agrárpolitika hatása a föld árára. *Competitio*, V évf. 2. szám, DATE, pp. 69-82.

FVM (2009): Jelentés az agrárgazdaság 2008. évi helyzetéről, Budapest, p. 134.

FVM (2008): Jelentés az agrárgazdaság 2007. évi helyzetéről, Budapest, p. 122.

FVM (2007): Jelentés az agrárgazdaság 2007. évi helyzetéről, Budapest, p. 122.

Gráf J. (2008): Pénzügyi reformok a magyar agrárgazdaságban, *Pénzügyi Szemle*, 2008/2. szám., pp. 235-248.

Hamza E. (2008): A mezőgazdasági jövedelmek kiegészítési lehetőségei, *Agrárgazdasági tanulmányok*, AKI Budapest, 2008.5. szám. p. 114.

Ihrig. K. (1968): A földár és a földérték a kapitalizmusban Budapest, MTA Közgazdasági Intézetek Kiadványai 2., p.191.

KSH (2008b): A mezőgazdaság fejlettségének regionális különbségei, változások a rendszerváltástól napjainkig, Szeged p. 203.

Marton, B – Malatinszky, F.M. – Kamarás K. (2003): Tőkemozgás az Európai Unióban és Magyarországon, *Európai Füzetek* 19. Miniszterelnöki Hivatal Kormányzati Stratégiai Elemző Központ és Külügyminisztérium közös kiadványa, p. 36.

Popp, J. – Potori, N – Udovecz, G. (2007): Az SPS alkalmazása Magyarországon. *Vetőmag*. 2007/4.

Popp, J. – Udovecz, G. (2007): Hungarian Agriculture and EU Accession, Paper prepared for presentation at the joint IAAE-104th EAAE Seminar, *Agricultura Economics and Transition: What was expected, what we observed, the lessons learned*, Corvinus University of Budapest (CUB) Budapest, Hungary. September 6-8., 2007, p. 10.

Popp, J. (2003): Agrártámogatás, jövedelemtranszfer, multifunkcionális termelés. *A Falu*, XVIII. évf. 1. sz., pp 67-68.

Swinbank A – Daugbjerg C. (2006): The 2003 CAP Reform: Accommodating, WTO Pressures *Comparative European Politics* vol. 4 No. 1, pp. 47-64.

Swinnen, J. – Vranken, L. (2008): Review of the Transitional Restrictions Maintained by New Member States of the Acquisition of Agricultural Real estate, *Centre for European Policy Studies*, Brussels, p. 85.

Swinnen, J. – Ciaian, P. – Kancs, A. (2009): Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures Applied under the Common Agricultural Policy, Final Report, Centre for European Policy Studies, Brussels, p. 318

Tanka Endre (2009): A földügy nemzetstratégiája a KAP reformok keretében, in Dömsödi J. (szerk): Az I. ingatlanvagyon-gazdálkodási és ingatlan-forgalmazási országos konferencia (2009. június 8-9.) előadásainak összefoglalója, pp. 77-82.

Tanka Endre (2004): Magyar birtokpolitika az Európai Egyesült Államokban. Földviszonyaink útja Moszkvától Brüsszelig. Alterra Kiadó, Budapest, p. 367.

Tanka Endre (1998): Agrárfinanszírozás a fejlett piacgazdaságokban, Agrárgazdasági tanulmányok, 15. szám, AKII, p. 52.

Tanka Endre (2008): Előadás: Az Egységes Támogatási Rendszer tervezett bevezetése (Az Országgyűlés Mezőgazdasági Bizottsága) 2008.

Kapcsolódó fontosabb jogszabályok:

A Tanács 73/2009 EK rendelete

A Tanács 1782/ 2003 EK rendelete

A Tanács 1689/2005 EK rendelete:

A Bizottság 1857/2006 / EK rendelete

1994. évi LV. Törvény a termőföldről

1993. évi II. törvény a földrendező és a földkiadó bizottságokról.

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FVM rendelet tervezet az egységes mezőgazdasági támogatási rendszer bevezetéséről és működtetéséről szóló 2009. évi törvény végrehajtásával összefüggő egyes rendelkezések megállapításáról, 2009.02.27 ([http:// www.fvm.gov.hu/ doc/ upload 200902/ SPS\\_tervezet 3 pdf.](http://www.fvm.gov.hu/doc/upload/200902/SPS_tervezet_3.pdf))