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**ERASMUS+ STRATEGIC PARTNERSHIPS IN
RESPONSE OF THE COVID-19 SITUATION
„EDULAW“**



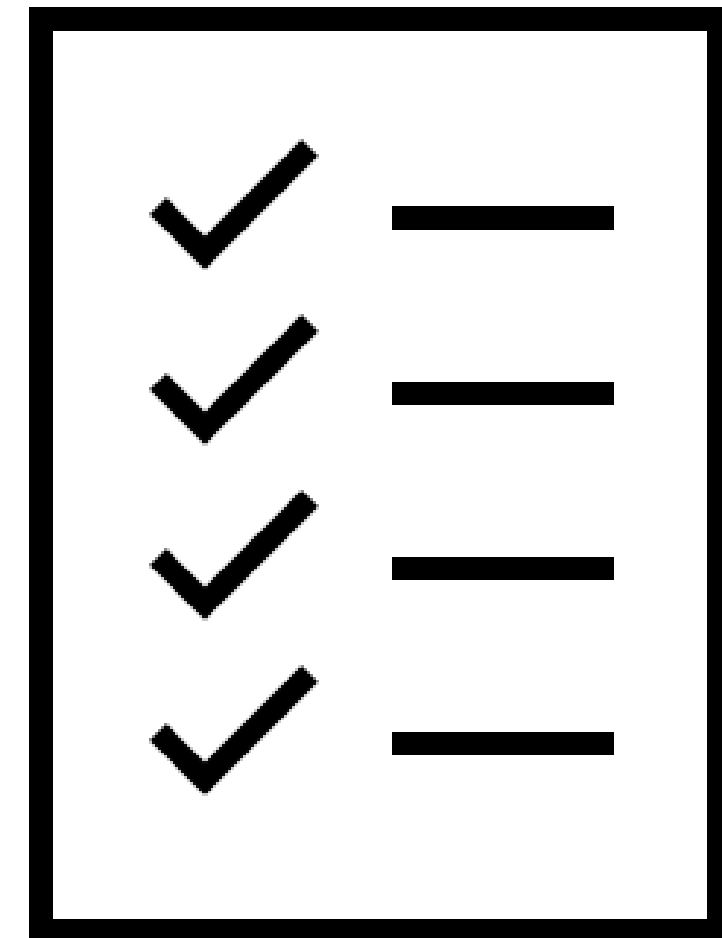
Agrarian law - introduction

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Program

1. Agriculture
2. Agrarian law
3. Sources of agrarian law
4. Land law
 - 4.1. Historical background
 - 4.2. Land consolidation
 - 4.3. Rights to the agricultural land



Agriculture

- one of the oldest and most important human activities

Milestones:

- **1848** - abolition of serfdom and industrial development => *migration from the rural areas to the cities*
- **from 1/2. 19. century**
 - change from triple to double system of agricultural management => *specialisation, first innovations*
- **After world wars**
 - food and labour shortage, devastated landscape => *communism, collectivisation, using of mineral fertilizers*
- **After 1989**
 - recovery of ownership rights;
 - entrance to the EU (CAP)

Agrarian law

- Agriculture = nutrition of population
- functions: production and non-production
- Law is the necessary basis for fulfilling the function
- **Agrarian law is this is semi-legal branch that regulates relations arising in the field of agriculture**
 - *General part*: legal norms include another legal branches (civil law, land law, labour law, commercial law, administrative law, EU law, international law)
 - *Special part*: legal norms regulates relations like crop and livestock production, food processing, hunting, fishing, beekeeping, forestry and water management

Sources of agrarian law

1. **Legal norms**
2. **Contract with normative character**
3. **Final decisions of the Constitutional Court of the Slovak Republic** on non-compliance of acts with the Constitution

Legal Norms

- Constitution of the Slovak Republic (460/1992 Coll.)
- Legal acts of the Slovak National Council of the SR
- Governmental Regulations
- Generally binding legal acts ministries, other central state administration bodies-the decrees, measures
- General application of the district offices
- Generally binding regulations of self-governmental regions
- General application of the municipalities

Sources of Agrarian law:

- general
- complex/sectional
- component
- related



General Legal Norms

- **Substantive acts:**

- Constitution of the SR
- Civil Code (Act No 40/1964 Coll.)
- Commercial Code (Act No 513/1991 Coll.)
- Criminal Code (Act No 300/2005 Coll.)
- Administrative acts

- **Procedural acts:**

- Administrative Order (Act No 71/1967 Coll.)
- Criminal Order (Act No 301/2005 Coll.)
- Civil Dispute Code (Act No 160/2015 Coll.)
- Civil Non-Dispute Code (Act No 161/2015 Coll.)
- Administrative Code (Act No 162/2015 Coll.)

Complex Legal Norms


- Act on land (Act No 229/1991 Coll.)
- Act on protection and using of agricultural land (Act No 220/2004 Coll.)
- Cadaster Act (Act No 162/1995 Coll.)
- Act on organic farming (Act No 189/2009 Coll.)
- Act on environment (Act No 17/1992 Coll.)
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Component Legal Norms

- Act on fertilizers (Act No 136/2000 Coll.)
- Act on veterinary care (Act No 39/2007 Coll.)
- Act on hunting (Act No 274/2009 Coll.)
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LAND LAW

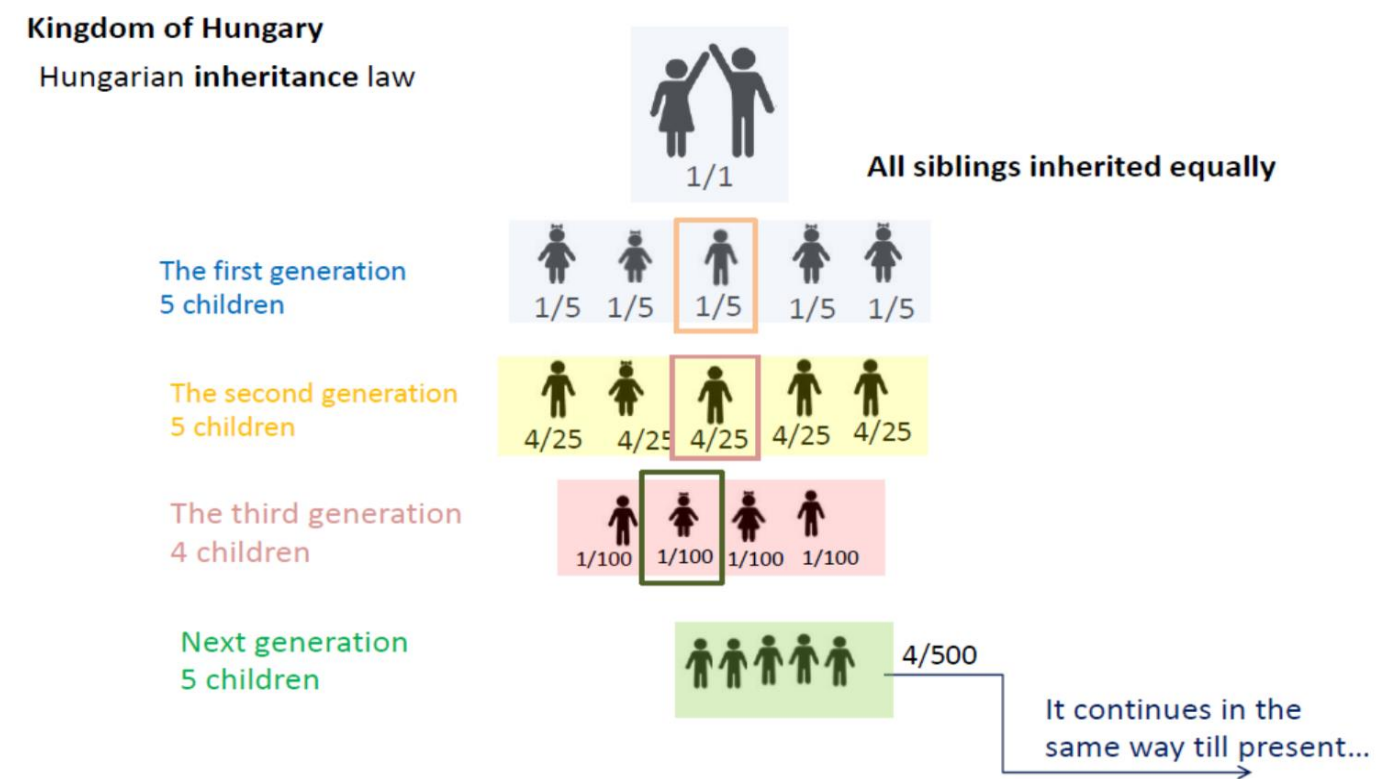
Historical backgrounds

- Before 1948 - natural development of land property rights,
 - 1948- 1990 - socialistic period => violation of fundamental democratic principles of land, property rights
 - 1991 - restructuralisation of land property rights
- 
- all periods has influence on current situation in land ownership and tenancy

Before 1918 – fragmentation

Influencing conditionalities:

1. Legal:



2. **technical**: small size of agricultural plots

3. **spatial dispersion** of land in the territory

Period from 1948 to 1990

- 3 categories of land property rights and rights of use:

- state ownership - inviolability of state property

- cooperative using

- confiscated land
- collectivization



**division of property
rights and rights of use
(property rights existed
but without the
ownership rights)**

- private ownership

- aim: liquidation of private ownership

1948 – 1989 – land „consolidation“

Process of confiscation and collectivisation



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graph TD; A[Process of confiscation and collectivisation] --> B[Consolidated land use to the huge plots]; B --> C[Land registry registered only rights of use];
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Consolidated land use to the huge plots

Land registry registered only rights of use

After 1991

Restructuralisation in Land Property Rights

1. Amendment of Constitution and Acts
2. Renewal of Cadastre/land registry
3. Privatization of state companies to private demanders
4. Restoration of land to the origin owners
5. Transformation of agricultural cooperatives
6. Land consolidation

1. Amendment of Constitution and Acts

1. Constitutional Act. 460/1992 Coll. - Constitution of the Slovak Republic (The Right to the Protection of the Environment and the Cultural Heritage (Chapter II, Part VI, Article 44-45)
2. Civil Code (Act No 40/1964 Coll.)
3. Other acts

4. Restoration of the Property Rights

- restoration of property rights to original owners/or their descendents in accordance with land evidence/cadastral from the year 1948
- 2 restoration acts – 1991, 2003
- Entitled persons: Slovak citizen
- Restoration process finished in 2004

5. Transformation of Agricultural Cooperatives

1. Agricultural land: pass to the origin owners
2. Cooperative property – transformation project
 - 50% of the farm property- owners of agricultural land
 - 20% - for employees
 - 30% - tangible property (machines, animals)
- Allotment certificates published for those who were not interested in farming



Problem... How to farm effectively on the land?

Land tenancy

- more than 90% of agricultural land is rented
- special legal regulation of agricultural rental contract

Temporary substitute land use

- **temporary legal institute of simple land consolidation**

Land consolidation

- 8,7% of all territory is consolidated
- extremely complicated process

Temporary substitute land use

- stabilize the land use
- entitled specific groups of subjects (previous agricultural cooperatives and owners whose land was collectivized) use temporary land in the big plots based on the decision of Land Department, District Office)

Land consolidation

- fragmentation: average size of agricultural plot is 0,45 ha with 12 – 15 co-owners,
-
- plots of one owner are fragmented in territory



- **Act related to restriction of land fragmentation** (from legal act or decision of state body can not arise plot of land less than 2000 m² for the agricultural land or land less than 5000 m² for the forest land.
- **consolidation** (mending, subdivision, land arrangements, implementation of communications, water, and recultivation measures in accordance with land property rights and land use)

Rights to the agricultural land

- Constitution
- Civil Code



Constitutional Regulation (Article.44-45)

- **Constitutional Act. 460/1992 Coll.** - Constitution of the Slovak Republic
- **The Right to the Protection of the Environment and the Cultural Heritage (Chapter II, Part VI, Article 44-45)**
- Provisions according to legal regulation is possible to divided on the provisions related to:
 1. *the position of persons*
 2. *the definition of care for the environment as one of the functions of the state*
 3. *economic foundations of the State*

„Everyone has the right to a favorable environment“ – Article 44, sec. 1

- Subject to the right – **each**
- **Objective of the legislation** - to achieve **sustainable development** (a person's right to live in an environment which allows him/her to satisfy basic needs and to use them so that the loss in the diversity of nature and to preserve the natural functions of ecosystems)
- **The content and scope of constitutional rights** - expressed indirectly

"Everyone is obliged to protect and enhance the environment and cultural heritage,, - Article 44, sec. 2

- General obligation in respect of the environment
- Obligations- ***all individuals and legal entities***
- ***Environmental protection*** is the behaviour of the entity to maintain a favorable environment (§ 9 of Act No. 17/1992 Coll. "protection includes activities that prevent pollution or damage to the environment or that pollution or damage to reduce and eliminate")
- ***Environmental enhancement***- conduct of a person, that follows the aim to achieve the desired social or economic effect (not enforceable)

"No one shall the limits laid down by the law to threaten or damage the environment, natural resources and cultural monuments (landmarks) - Article 44, sec. 3

- General ban **threatening** and **damage** the environment, natural resources and the cultural monuments
- *natural resources = are those of the living and inanimate nature that a person uses or may use to meet their needs*
- *the precautionary principle* (complementary expression of a duty to protect and enhance the environment)

„The state looks after a cautious use of natural resources, ecological balance, and effective environmental care, and provides for the protection of specified species of wild plants and animals“ Article 44, sec. 4

- provided the state's role in caring for the environment
- it is a positive obligation of the state in this area
- realization of tasks in the public interest (ie. security by government authorities)
- *„Cautious use of natural resources“* - the practical, economical and sustainable use

„Agricultural land and forest land as a non-renewable natural resources have special protection from the state and society.“ Article 44, sec. 5

„ Everyone has the right to timely and complete information on the state of the environment and causes and consequences of this condition,, Article 45

- Related acts
 - Act No. 211/2000 Coll. on freedom of information
 - Act No. 205/2004 Coll. on the collection and dissemination of information on the environment
 - Act No. 3/2010 Coll. the national infrastructure for spatial information
- these laws: individualas and legal entities
- indirect tool for law enforcement to the favorable state of the environment
- two ways: *accessing of information and dissemination of information*

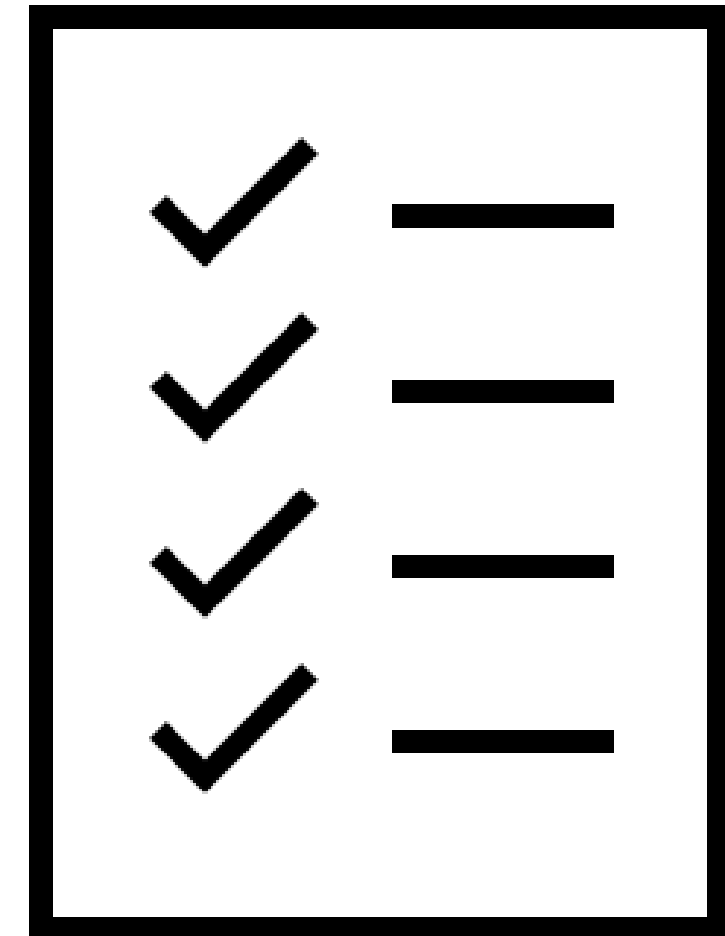
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Short Summary / key messages of the lecture

1. Which group has the largest share of land in Slovakia ?

- a) Private owners
- b) State
- c) Unknown owners

2. According to the constitution, who is obliged to protect and enhance the environment and cultural heritage?



Thank you for your attention

Any question? Doubts?
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