

EÖTVÖS LORÁND UNIVERSITY

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DOCTORAL SCHOOL

**THE CHARACTERISTICS OF THE VALID HUNGARIAN
COOPERATIVE LAW**

- Regarding the Regulatory Traditions with International Overview -

PH.D. DISSERTATION

THESES

WRITTEN BY:

DR. KLÁRA BAK

SUPERVISOR:

DR. HABIL. MÁRIA RÉTI PHD

associate professor

Budapest

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Table of contents

I. Summary of the research	3
II. Short description and methodological approach to the research	8
III. Main research findings and their possible applications	11
IV. List of relevant publications	16

I. Summary of the research

The documents of the international and other organisations, the organs of the European Union and the different global analyses emphasise the same opinion about the role of the cooperatives, according to which cooperatives are particular and unique in the 21st century.¹ The economies and societies in the whole world have not only been treating

¹ For the importance of cooperatives in the 21. century see the resolutions of the United Nations: The resolution „*Cooperatives in social development*” Nr. 72/143. acknowledges the importance of cooperatives in social and economic development and their contribution to the eradication of poverty and hunger. See more resolutions: Nr. A/RES/47/90; Nr. A/RES/49/155; Nr. A/RES/51/58.; Nr. A/RES/54/123.; Nr. A/RES/56/114.; Nr. A/RES/ Nr. 58/131.; Nr. A/RES/60/132.; Nr. A/RES/62/128.; Nr. A/RES/64/136.; Nr. A/RES/66/123.; Nr. A/RES/68/133.; Nr. A/RES/70/128.

See more: *Communication from the Commission to the Council and the European Parliament, the European Economic and Social Committee and the Committee of Regions on the promotion of co-operative societies in Europe (COM(2004) 18, of 23.02.2004, on the promotion of co-operative societies in Europe)*23. February, 2004; European Economic and Social Committee: Support of Cooperative Societies in Europe, Szövetkezés, 2005/1., pp. 236-254.; See more for the role of cooperatives: Emma MCINERNEY (FAO): *Cooperatives key to achieving sustainable agricultural development*; 2014; CIRIEC: *Social Economy in Europe*, 2012, http://www.eesc.europa.eu/resources/docs/a_ces11042-2012_00_00_tra_etu_hu.pdf 04.06.2018

Mária RÉTI: *GLOBALIZÁCIÓ, FENNTARTHATÓSÁG A szövetkezeti forma előnyeiről, a szövetkezetek eredményeiről, a szövetkezeti jog jelentőségéről*, Szövetkezés, 2016./1.; Johann BRAZDA, Jost W KRAMER, Juhani LAURINKARI, Robert SCHEDIWIY: *Anders als die Anderen, Eine unbefangene Annäherung an Genossenschaften. Sozialwirtschaft und Dritten Sektor*. CT Salzwasser-Verlag GmbH & Co. KG, Bremen, 2006; Johnston BIRCHALL: *Rediscovering the cooperative advantage. Poverty reduction through self-help*. Cooperative Branch, International Labour Office, Geneva, 2003

See for the role of cooperatives in crisis situations: CECOP-CICOPA Europe: *The resilience of the cooperative model, How worker cooperatives, social cooperatives and other worker-owned enterprises respond to the crisis and its consequences*, June, 2012, http://www.cecop.coop/IMG/pdf/report_cecop_2012_en_web.pdf 04.06.2018; International Labour Organization: Recommendation Nr. 193.; *European Parliament resolution of 2 July 2013 on the contribution of cooperatives to overcoming the crisis* 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0301+0+DOC+XML+V0//HU> 04. 06. 2018; Bruno ROELANTS: *Munkavállalói szövetkezetek*, Szövetkezés, Nr. 1999/2, pp. 130-139; Bernard THIRY: *A szövetkezetek és a szociális gazdaság az Európai Unióban*, Szövetkezés, Nr. 1999/2, pp. 4-17

this particular enterprise as an economic player that promotes effective participation of less capital market players in the market economy since the 19th century. Cooperatives are also deemed to have a more versatile and significant role considering the practical experiences and valid results. Cooperatives are able to protect their members in the competitive market and handle the emerging difficulties flexibly both at the micro and macro level. Moreover, in crises situations these enterprises are more resistant than other ones.

All in all, these organisations are able to respond to social and environmental issues. The people-orientated, the community building and forming features are fundamental characteristics of the cooperative.

Due to these characteristics, the European legislations devote cooperatives noticeably to its essential and complex role. Generally, the cooperative law is developing and forming dynamically as it is continuously trying to meet the economic, social and communal demands. Moreover, it is making an attempt to adapt to the environmental and climate changes. These are the international trends regarding the cooperative law.

This research has been served as a healthcheck to scrutinise the characteristics of the valid Hungarian cooperative law and to compare this regulation with the international trends.

Considering the fact that the unique and eternal features of cooperatives were elaborated in the 19th century in Europe; *the research has dealt with the question how the Hungarian cooperative law is enforcing the European traditions which are considered to be the roots of the cooperative regulation of the European countries.*

Firstly, *among the European traditions the research has focused on the Constitution of the Rochdale Equitable Pioneers Society established in 1844.* Also, the research has examined how the Hungarian cooperative law adapts to the traditions of Rochdale which is the fundament of cooperative law in Europe. The establishment of the Rochdale Cooperative was an effective response to the negative consequences of

the economic and social restructuring caused by the English industrial revolution in the 19th century.²

The founders of Rochdale Cooperative³ trusting in the social and economic advantages of the collaboration based on self-help⁴, mutuality and cooperation established a regulation in the constitution of their cooperative in the frame of the

² See for the history of the development of cooperatives: Ödön KUNCZ: *A Rochdale-i elvek és a szövetkezet jogi fogalmának körülírása*, Küzdelem a gazdasági jogért, II. Vol., Királyi Magyar Egyetemi Nyomda, Budapest, 1941, pp. 414-415 and pp. 442., Jenő CZETTLER - Károly IHRIG: *Szövetkezeti Ismeretek*, Pátria Irodalmi Vállalat és Nyomdai Részvénytársaság, 1926 Budapest, especially: p. 6; Ákos NAVRATIL: *Közgazdaságtan*, Budapest 1936, especially the part related to cooperatives; COSACK Konrad: *Lehrbuch des Handelsrechts*, Ferdinand Enke, Verlag Stuttgart, Stuttgart, 1930; Gyula TELLÉR: *Megjegyzés a szövetkezetekről.*, Szövetkezés, 2015. évi I. Vol.; Tamás PRUGBERGER: *A kereskedelmi szövetkezetek szerepe a közép-kelet európai térségben*, Szövetkezés, XV. Vol. 1994/1-2., pp. 21-39; Mária RÉTI: *Szövetkezeti jog*, Egyetemi jegyzet, Budapest, ELTE Eötvös Kiadó, 2010, pp. 9-33; George Jacob HOLYOAKE: *The History of Co-Operation*, Copyright Bibliolife, London, T. Fisher Unwin, 1, Adelphi Terrace, MCMVI, pp. 277-335, Johnston BIRCHALL: *The international co-operative movement*, Manchester and New York, Manchester University Press, pp. 3-11; Ferenc LACZÓ: *Szövetkezeti típusok és formák a piactudományokban*, Szövetkezés XVI. Vol., 1995/ 2., pp. 10-12; The cooperative regulation of western part of Europe in the second half of the 19 Century is analysed: SCHULZE-DELITZSCH: *Die Gesetzgebung über die privatrechtliche Stellung der Erwerbs- und Wirthschaftsgenossenschaften mit besonderer Rücksicht auf die Haftpflicht bei kommerziellen Gesellschaften*, Berlin, Verlag von F. A. Herbig, 1869;

The history of the development of the Hungarian cooperative law is elaborated especially in e.g.: Györgyné DOMÉ: *A szövetkezetek jogi szabályozásának múltja, jelene és jövője*, Tanulmányok Veres József egyetemi tanár 70. születésnapjára Szeged, 1999. /Acta Jur. et Pol./, pp. 79-92.o; József VERES: *A százharmincadik év hatodik szövetkezeti törvényéhez*, Szövetkezés, XXVI. Vol., 2005/1., pp. 153-172.; József VERES: *A szövetkezet jogi minősítése*, Szövetkezés, 2002/1-2., pp. 55-70; Mária RÉTI: *A magyar szövetkezeti jog szabályozási hagyományairól; Az 1875. évi XXXVII. törvénycikk, a Kereskedelmi Törvény rendelkezéseiről, valamint „A Gazdasági és Ipari Hitelszövetkezetekről” szóló 1898. évi XXIII. törvénycikk vonatkozó szabályozásáról*, Szövetkezés, 2015./1.; Pál BOBVOS: *Szövetkezeti jog A Polgári Törvénykönyv alapján*, Egyetemi jegyzet, Szegedi Tudományegyetem Állam- és Jogtudományi Kar, Szeged, 2016, pp. 26-35.

³ „Rochdale Pioneers”

⁴ „Selbsthilfe”; See for it: Zoltán GALOVITS: *A magyar szövetkezeti jog*, Pátria Irodalmi Vállalat és Nyomdai Részvénytársaság, 1901 Budapest, p. 3.

contemporary regulatory environment⁵ which is considered to be the root of the cooperative law and practice.

The second pillar of the European regulatory traditions of cooperatives is the guidelines which were enshrined by the International Cooperative Alliance (hereinafter: ICA)⁶. ICA has been the trade union of cooperatives since 1895 worldwide, also providing codificational and law-harmonisation tasks. Since the first third of the 19th ICA has been declaring its definite point of view about the crucial features of 'real' cooperation in 'International Cooperative Principles' which are based on the traditions of Rochdale. Its goal is to get national lawmakers to formulate all of national cooperative law materials by enforcing the basic principles mentioned above. Thereby, cooperative regulations may be laid down with a regulatory content which ensures the enforcement of the own features of cooperatives globally. Its activity promotes realizing the appropriate founding and operation of cooperatives remarkably. The research has detailed the document called 'Statement on the Co-operative Identity' (hereinafter: ICA Statement)⁷ which includes the valid International Cooperative Principles⁸, the definition of cooperative⁹ and the cooperative values¹⁰ listed by the

⁵ There was valid a frame-like regulation for the foundation and operation of cooperatives in England: Act of the 1829 year and the Friendly Societies Act form the 1834 year. The first English cooperative Act was worked out in 1852. It was the „Industrial and Provident Societies Act”. See for the history of the English cooperative regulation: Ödön KUNCZ: A Rochdale-i elvek és a szövetkezet jogi fogalmának körülírása, pp. 414-421; Mária RÉTI: Egyetemi jegyzet, p. 47-52; SCHULZE-DELITZSCH: quoted work, p. 25

⁶ The ICA has more than 1 billion members. See for the homepage of ICA: <http://ica.coop/> 04.06. 2018

⁷ See the document: <http://ica.coop/> 04. 06. 2018

⁸ The international cooperative principles are the followings: „1. *Voluntary and Open Membership*; 2. *Democratic Member Control*; 3. *Member Economic Participation*; 4. *Autonomy and Independence* ; 5. *Education, Training and Information*; 6. *Cooperation among Co-operatives*; 7. *Concern for Community*”

⁹ „A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.”

¹⁰ „self-help”, „self-responsibility”, „democracy”, „equality”, „equity” and „solidarity”

ICA. *The object of the survey was to analyse how the valid Hungarian cooperative law meets the mentioned 'international standards' prepared by the ICA in the frame of its law-unifying task.*¹¹

At the time when European cooperative regulations appeared, the regulation of cooperative was also constructed in the contemporary Hungarian law. The Hungarian cooperative regulation harmonised with the point of view of the European ones, but naturally, it also took the national specialities into consideration. So *I considered necessary to examine to what extent the traditions of the Hungarian cooperative law dating back to the end of the 19th century serving the basis of the Hungarian cooperative regulation emerge in the current Hungarian cooperative law.*

From my point of view, the cognition of certain present regulatory patterns and trends is also essential. *Thus, the research has analysed the mostly European valid regulatory patterns which indisputably has already had an influence to the Hungarian valid cooperative law. But it also has scrutinised those ones which may serve as examples to be followed from the Hungarian regulation for the future. In this field the essential features of the cooperative law of the European Union would be described with special.*

With the analyse mentioned above ***the research had also the purpose to formulate useful and progressive recommendations for the lawmaker relying on the traditions of the European and Hungarian cooperative law, and on the patterns of***

¹¹ See for the analysis of the International Cooperative Principles e.g.: Ian MACPHERSON: *A szövetekezeti identitás a XXI. században*, Szövetkezés, 1994/1-2, pp. 65-84.o.; Hagen HENRY: *Szövetkezeti értékek és alapelvek megjelenítése az Európai Unió tagállamai szövetekezeti törvényhozásában és az EU szabályozással kialakított Európai Szövetkezeti Társaság (ESZT) alapokmányában*, Szövetkezés, Nr. 2004/1-2, Tamás PRUGBERGER: *A kereskedelmi szövetekezetek szerepe a közép-kelet európai térségben*, Szövetkezés, Nr. 1994/1-2, pp. 21-39; Pál BOBVOS: *Magyar szövetekezeti jogtan*, Egyetemi jegyzet. SZTE ÁJK - JATEPress. Szeged, 2011, pp. 23-29; see more: Csilla CSÁK: *Szövetkezeti alapelvek az SZNSZ kongresszusának megfogalmazásában és tükrözödésük a magyar szövetekezeti mozgalomban*, Gazdaság és Jog, 2000, Nr. 11, pp. 24-27; Klára BAK: *A nemzetközi szövetekezeti alapelvek és a szövetekezet fogalmának összefüggései a szabályozásban*, Szövetkezés, 2012/1-2, pp. 9-33

current European cooperative regulations to develop Hungarian valid cooperative law. The main points of view of the related professional literature were also taken into consideration.

II. Short description and methodological approach to the research

While examining the constitution of the Rochdale Society established in 1844 the research focused on the cooperative-specific regulatory fields. During the examination I tried to collect those specific characteristics which give the changeless and timeless essence of the cooperative form. In my opinion, these characteristic features shall also serve as the frame system of the valid Hungarian cooperative law. While dealing with the subject, I reviewed some professional literary work from some 20th-century-Hungarian analysts such as Károly Ihrig, Ödön Kuncz, Ferenc Nagy, Ákos Navratil and from some contemporary analysts such as Pál Bobvos, Mária Domé, Tamás Prugberger, Mária Réti, József Veres. I have also dealt with some work dealing with the essence of the cooperative from Hans H.-Münkner, Hagen Henry, Ian Macpherson, Mario Patera, Bernard Thiry.

Concerning the constitution of Rochdale, I have made a detailed analysis of the aim of the Rochdale Cooperative, the rules dealing with establishing a membership, the special norms regarding property law of the constitution paying a special attention to the system of the distribution of the surplus, and at last the special regulations referring to the organisation.

As for the codicating activity of the ICA my point of view is that the International Cooperative Principles of the ICA and the definition and values of the cooperative represent an international standard which we can not ignore when the national lawmakers work out and codificate or sometimes modify the cooperative law. It is important to underline that the principles and values mentioned above ensure the remanence of the cooperative-specific norms of the constitution of the Rochdale cooperative. Because of them I put a great emphasis on the detailed analysis of the meaning of the International Cooperative Principles. During the research I have tried to show the practical importance of certain principles. While doing it, I relied on some

work from both previous and contemporary authors¹² and on other literary resources and documents published by international organisations.¹³

The greatest part of the dissertation consists of the introduction of the main pillars and structure of the valid Hungarian cooperative law and the analysis of the two basic regulations. One of the basic regulations is the Act on Civil Code Nr. 5 of 2013 (hereinafter: Civil Code), more precisely the cooperative-specific norms of Part 4, Book Three. The other basic regulation is the Act on Cooperatives Nr. 10 of 2006 (hereinafter: Cooperative Act). It means that besides the general laws in connection with cooperative, the analysis works with the special Hungarian rules of four different types of cooperatives: agricultural cooperatives, social cooperatives, school cooperatives and pensioner cooperatives of public utility. Besides the very detailed explanation I have tried to give a detailed picture of the characteristics, particularities, developing trends, and the rules to be corrected, completed and modified. I have examined the definition of the cooperative, establishing and abolishing the membership, the rights of the members, the cooperative-specific rules, the main norms of the organisation, the status changes and cessation of the cooperative from the provisions of the Civil Code concerning cooperatives. The starting points of my analysis were the special features of cooperatives shown during the examination of the Rochdale Constitution and the International Cooperative Principles. I searched their

¹² E.g.: Csilla Csák, Zoltán Galovits, Henry Hagen, Ödön Kuncz, Ian Macpherson, Ferenc Nagy, Tamás Prugberger, Mária Réti

¹³ E.g.: ILO: Recommendation 193 on „Promotion Cooperatives”, See in Hungarian: <http://www.kormany.hu/download/e/39/01000/193A.pdf>; ILO–ICA: *Cooperatives and the Sustainable Development Goals; A contribution to the post-2015 development debate*, 2014, http://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_240640.pdf 04.06.2018. ; International Centre of Research and Information on the Public, Social and Cooperative Economy: *Social Economy in Europe*, http://www.eesc.europa.eu/resources/docs/a_ces11042-2012_00_00_tra_etu_hu.pdf 04. 06. 2018; FAO: *Agricultural cooperatives are key to reducing hunger and poverty*, 2011, <http://www.fao.org/news/story/en/item/93816/icode/> 04.06. 2018; CECOP-CICOPA Europe: *The resilience of the cooperative model, How worker cooperatives, social cooperatives and other worker-owned enterprises respond to the crisis and its consequences*, June, 2012: http://www.cecop.coop/IMG/pdf/report_cecop_2012_en_web.pdf; 04.06. 2018

existence and emergence in the provisions of the Civil Code related to cooperatives. After the detailed exposition of the mentioned Civil Code provisions, I introduced the rules of the Cooperative Act in relation to some types of cooperatives. I have found it important to show the rules of the mentioned types in great detail, as all the rules of the Cooperative Act concerning the different types of cooperatives are connected to the general rules of cooperatives, but they all have some kind of specialities. My point of view is that these special rules reflect the most and the main tendencies of the cooperative regulation.

Referring to the four types of cooperatives having been mentioned before, I have tried to highlight when the special regulation first appeared, what international circumstances or possible regulatory patterns have been affecting the certain special regulations. Furthermore I have examined their content in details. Also, I have reviewed the legal frame of the Hangya Cooperative System.

In each case I have tried to find the reason for the deviation from the general rules and the way the special regulation breaks the characteristic features of the traditional regulation of cooperatives. I tried to make corrective recommendations based on the theoretical and practical experiences of the past ten years because I intend to improve the cooperative regulation in Hungary.

As it is clearly seen, my research is highly based on law-comparative method, but it can be characterised by using the method of the History of Law and by using a law dogmatical method, too. I have paid the greatest attention to the law-comparative method, because during the examination and analysis of the valid Hungarian cooperative law, it is inevitable to draw the attention to the fact that its traditions are totally Europeans but at the same time they date back to the 19 Century Hungarian cooperative law as I have already mentioned. Speaking about the History of Law, I would like to emphasize the effect of the German cooperative law connected to the second half of the 19 Century. It was the basic pattern and example for the Hungarian cooperative law and as such it can be valued as one of the basic regulatory fundamentals of the valid Hungarian cooperative law. I consider the regulatory guidelines of the ICA and the valid cooperative regulatory models of some countries to be followed in some regulatory fields as a basic starting point in respect of the development of the valid

Hungarian cooperative regulation. Besides all these, I have made empirical researches involving several international documents.

III. Main research findings and their possible applications

1. *My research has showed that the special principles laid down in the constitution of the Rochdale Cooperative and the International Cooperative Principles serve as the indispensable basis for the valid cooperative regulations.* In my opinion, we can make the conclusion that in spite of the permanent and global changes in society and in economy a cooperative form must have the characteristics which are independent from time and serve as a steady frame to the operation of cooperatives even today. They are all reflected in the valid International Cooperative Principles. On the basis of my analysis I would like to highlight the following: the complex aim of a cooperative (both economic and social aim), it works on the basis of selfhelp, it works in a member-orientated way (the cooperative works primarily for their members), the obligation of the cooperative member to the personal contribution, the multiple position of the member of the cooperative (the member is the user/the worker of the cooperative at the same time and he/she also controls it), the predominancy of the voluntary and the open membership and of the democratic directing rules (especially one member one vote principle), the special property rules (especially the principle of the refund in proportion to the purchase and the rule of establishing of the surplus)

2. As the result of my research I think that the supplement of the valid Cooperative Act may support the application of the law and promote the appropriate practice of applying laws. Considering the regulatory pillars of the Hungarian cooperative law, I also find it important to preserve the frame-like regulatory rules of the Third Book of the Civil Code because we speak about a legal person in the case of cooperatives. In my point of view, we have to work out the extended provisions of the Cooperative Act on the basis of the frame-like regulatory rules of the Civil Code.

3. Another vital statement of mine is that in the valid Hungarian cooperative law – like in the Spanish regulation – the special cooperative types have more and more specific rules at the level of Acts. Working on the detailed rules of the Cooperative

Act I recommend joining this tendency in the following way: The general provisions of the Cooperative Act shall be supplemented with obligatory rules. The other part of the Cooperative Act shall be examined from the aspect, what further types of cooperative it may be supplemented to. I consider the Spanish and Portugal cooperative law as an example to be followed. Using the Portugal cooperative law as an example, it would be good to fix the International Cooperative Principles along with their meaning found in the Declaration of Manchester, as one of an Article of the Cooperative Act . It would be practical to indicate not only the International Cooperative Principles but the cooperative values, too. In the Hungarian cooperative law the implication of these principles and values may help the right operation of cooperatives as 'real' ones. As we can see it in the Spanish cooperative law, it may be useful to classify the main types of cooperatives in a separate Article of the Cooperative Act

4. My research has also pointed out, that the cooperative requires a more detailed definition. The economic essence and the unique nature of cooperative based on a special collaboration called 'cooperative cooperation' by Kuncz Ödön shall obviously be reflected in the definition.

5. According to the research, the valid cooperative regulation requires an supplement concerning the membership rules in respect of the members without personal contribution. Should Cooperative Act be supplemented suggested by me, it shall record special rules regarding cooperative membership in respect of the members without personal contribution. Primarily, it is necessary to declare that the cooperative may have both members with and without personal contribution. Besides the provisions of the Cooperative Act concerning the members without contribution (the number of the investing members may not be more than the quarter of the whole membership; in addition to it, the investing members shall pay the financial contribution in one amount both at the foundation and at the entry) I find it important to establish further special rules for them due to its status in the frame of decision making and law of property. I propose establishing an obligatory rule in the Cooperative Act which shall contain that every investing member shall have one single vote on the condition that under no circumstances shall the constitution of the

cooperative depart from it. Also, I consider it essential to establish a rule according to which the member without personal contribution shall benefit from the profit of the cooperative in proportion to its financial contribution. In respect of this proposal the Cooperative Act shall include the rate of the financial contribution if the investing members compared to the not investing ones. Following the patterns of the German Cooperative Act and the 1435/ 2003 SCE Regulation, the Cooperative Act shall detail the rate of the investing members in the Supervising Committee and in the Management. Personally I think these provisions would guarantee the preservation of the cooperative specific operation of cooperatives.

6. *Also, according to the organisational rules of the cooperative I recommend the supplement of the valid provisions.*

I find it extremely important to establish a cogent provision concerning the principle of 'one member –one' vote considering the Hungarian regulating traditions, the valid judicial practice and the international examples. However, similarly to the German cooperative law and the regulating perception of SCE Regulation, *I propose a further provision in the Cooperative Act that may overrule the main provision namely, the principle one member-one vote. This provision shall allow the constitution of the cooperative to differ from the basic rule mentioned above but within certain frames.* The insurance of the plural voting right in the Hungarian law may be allowed in relation to the personal contribution, personal activity of the cooperative member. The Hungarian law shall follow the pattern of the German cooperative law as well as the SCE Regulation. Furthermore, it shall establish the boundaires of the plural voting right as it has been defined in my dissertation.

7. According to my researches, the institutional regulation should also be supplemented concerning the general meeting and section meeting. In my opinion, it is needed to enshrine a headcount at the level of law, in the Cooperative Act; above this headcount, the by-law may prescribe the function of the general meeting and section meeting. Establishing special rules regarding certain cooperative types referring to the institutional regulation needs to be reconsidered.

8. Regarding the property rules of the cooperative, the regulations on the distribution of profits and provisions on reserve formation need to be supplemented by the analysis I have done. I consider that requirement is utmost important which were enshrined in the Act of 1898 on Cooperative Law by Professor Ferenc Nagy and also in the German Act on Cooperative Law that reserve formation is mandatory in the cooperative. According to these two Acts, members could have benefited from the profits only after the deduction of the assets to be placed in the reserve fund. It is also important on the one hand that the reserve fund should serve to cover the loss and on the other hand, the reserve fund has to finance the allowances and grants which are provided for the cooperative members and their relatives. Basically, the 'indivisible' legal nature of the community fund is needed to determine in the Codex, as is currently stated in the Hungarian and German cooperative regulations in force. Regarding the indivisible legal nature, I also note that in the case of the termination or transformation of a cooperative the community fund could be available only for those co-operatives or cooperative associations which are defined in the by-law.

9. On the basis of my research it is worth thinking over what cooperative types might require special regulations at the level of the Cooperative Act besides the provisions of the current regulated types. In this recommendation of mine I consider the Spanish and Portugal cooperative law and regulatory aspect as a pattern to be followed. As for the current tendency e.g. the new cooperative type, the so called energy cooperative having already spread in Germany may be regulated. Its aim is to make the environmental friendly energy consumption more available for smaller communities. After the analysis of this type it is advisable to carry out a special regulation in the Cooperative Act. Another essential statement of research the development of the regulation of the agricultural cooperative is strongly recommended considering the beneficial natural-geographical features of Hungary. The supplement of the regulation may be realized by following the model of the Hangya system, especially its rules of profit sharing. By carrying out the regulation the lawmaker should think over what questions should belong to the competence of the members and what questions should be clarified at the level of the Cooperative Act. I also find it important that the lawmaker should examine the rules relating to the acknowledgement of the producing

group in a way that which of them he/she would apply in the case of every agricultural cooperative.

10. Considering the previous Hungarian regulatory tradition, the Italian, Portugal, Spanish and Greek European regulatory patterns, *one of my fundamental conclusion was that the establishment of the constitutional pillar may basically be recommended in the frame of the regulatory pillars of the valid Hungarian cooperative law.* The constitutional grounds may be the basis of the Hungarian cooperative law by declaring the fundemantel values and operating features along which all the cooperatives shall work in Hungary. Furthermore it is worth mentioning that the Fundamental Law may establish the possibility of the state support of the cooperatives operating decently and prudently. The dissertation includes the exact regulatory elements which may mean the basis of the regulation of the the fundamental law.

11. Taking my point of view concerning the constitutional basis and the content of the related analyzed international documents (e.g. the Recommendation Nr. 193 of the ILO according to which the support of the cooperative form may be recommended as for its complex advantages) into consideration I find it essential to make a further recommendation. In my opinion, the controlling system of the operation of cooperatives is needed to be carried out. While controlling, it shall be examined whether the cooperative may be able to fulfil its complex task for its members and function along the values and International Cooperative Principles or not.

Hopefully the conclusions, opinions and recommendations presented in my dissertation may be useful for supervising and improving the valid Hungarian cooperative law.

IV. List of relevant publications

Klára Bak: A Károlyi Sándor-féle Hangya szövetkezeti rendszer – aktualitások, Szövetkezés, 2016./1. pp. 41-54., 2016

Klára Bak: A termelői csoport főbb hatályos magyar szabályairól közösségi jogi kitekintéssel, Szövetkezés, 2016/1. pp. 78-92., 2016

Klára Bak, Mária Réti: The Common Agricultural Policy with and without the United Kingdom – CAP Brexit, ELTE LAW JOURNAL, 2016/1. pp. 163-182., 2016

Klára Bak, Mária Réti: Áttekintő elemzés az aktuális nemzetközi tendenciákról, Szövetkezés, 2015/1. pp. 150-164. , 2015

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