

Conclusions of the summary report on legal actions relating to the Land Transactions Act

1. In order to achieve the objectives set forth in its preamble, Act number CXXII of 2013 on Agricultural and Forestry Land Transactions (hereinafter referred to as the Land Transactions Act) has introduced a number of comprehensive modifications in respect of the establishment, expiration, termination, effectiveness and validity of owner and user relationships on cultivated lands. Due to the Land Transactions Act's specific feature of having a major impact both in the fields of administrative and civil law, the jurisprudence-analysing working group was called upon to address many issues of interpretation and application of law.

The jurisprudence-analysing working group examined the courts' case-law on legal actions relating to the Land Transactions Act and had to deliver a coherent summary report thereon on the basis of the courts' developing practice and in a changing legislative environment.

The jurisprudence-analysis was carried out based on the following process and method: the working group held their constituent meeting on 20 September 2018. By that time, the high courts and the regional appellate courts had already sent their relevant final judgements to the working group. The group members then proceeded to make a first selection of the cases concerned, followed by the allocation of tasks and by the elaboration of subtasks at a number of subsequent meetings.

Three types of case reports have been used: i. case reports including the Curia's relevant decision (the most frequently applied method), ii. case reports grouped per theme and iii. case reports linked to the application of particular legal provisions (primarily in case of the analysis of procedural issues).

The legal instruments concerned have been interpreted and applied both by the Curia's civil and administrative judges – parallelly, but not necessarily knowing of each other's judicial practice – in the same manner. This case-law is reassuring from the point of view of showing that the judges' interpretation of law – irrespective of their field – has been consistent in terms of the main topics.

2. The summary report of the jurisprudence-analysing working group starts with the presentation of the European Union's legislation and the European Court of Justice's case-law in connection with the regulation of land transactions and continues with an assessment of the Constitutional Court's relevant decisions.

The chapters related to the field of administrative law include the following topics: substantive legal rules on ownership, usufructuary and usership rights over lands, procedural issues related to the acquisition of ownership and usership rights and registrational issues in respect of land transaction proceedings.

The chapters related to the field of civil law comprise the followings: sale of land, adverse possession, termination of co-ownership, issues in connection with and the validity of land lease agreements, share farming relationships, damage caused by game and the assignment of court cases.

3. The jurisprudence-analysing working group is of the unanimous opinion that there is currently no need to motion for the launch of a uniformity decision procedure either in the field of administrative law or in the field of civil law or to propose the adoption of a new legislation. On the other hand, the group members suggested that the issues of legal actions relating to the Land Transactions Act be revisited in about two years' time. A new jurisprudence-analysing working group could also be set up in the future to explore the case-law followed by the courts after the publication and on the basis of the present summary report.