

## Teaching Land Law: Controversy and Land Policy in Hungary from 1948 to 1968

### Abstract

**Topic of the study.** During the harsh Stalinization from 1948 agriculture had to be collectivized while land was not nationalized by decree as the Bolsheviks did in Russia in 1917. The Soviet legal system was a pattern for jurists but the differences made the transition to “socialism” more rugged and controversial. The legal scholars had to interpret a situation which had to develop further to full “socialization”. In order to do that, a “cooperative law” and a “land law” had to be created and taught as part of “agricultural law”.

**Research questions and methods.** Land law consisted of regulations regarding private farmers and collective agricultural producers (cooperatives, state farms etc.), theoretically in the whole research period. How did the agrarian, cooperative and land policy affect legal theory on land tenure system? What kind of scientific dispute emerged on this matter and how did the attempts of codification of land law affect legal education? Various types of sources were evaluated, for instance protocols of council meetings of the faculty of law of two universities, archival sources, articles and studies from authors who taught land law and took part in its debate and codification.

**Results and conclusions.** Law was used as a tool to boost transformation, and the lawmakers and jurists faced a paradox situation in which there was a need of codification of land law and to make it independent from other branches of law. On the one hand, jurists argued like Gyula Eörsi and Miklós Világhy that civil law had primatus in the legal system and property relations had to be included in that part of legislation during the “transition period”. On the other hand, many jurists, for instance Iván Földes, Imre Seres claimed that cooperative law or/and land law were separated branches of law despite the fact that mass collectivization was not completed until the spring of 1961.

**Keywords:** Stalinism, collectivization, NEP, land ownership, agricultural law, codification

### 1. Introduction

The Hungarian countryside went through a radical transformation in the second half of the 20<sup>th</sup> century. It began with a “land reform” in 1945, when the communist party planned, initiated and implemented among others the redistribution of large agricultural estates. This first land policy measure was considered as a huge step of “democratization” of the rural world. Redistributed land remained in private ownership which was limited by the law. The communist parties carried out land reforms in Central, East and Southeast Europe to gain political advantage. After World War Two, land reform was on the agenda not just in countries in the Soviet power sphere, but also in countries which were occupied or liberated by Western powers, for instance in the Western Occupied Zones of Germany, in Japan and in South Korea. The Bolsheviks did nationalize land and redistributed it in 1917; later in the late 1930s the Soviet leadership pursued the same objectives in the annexed Western territories, however, collectivization followed this measure in a shorter span of time. Some of the authors claimed that the communist land reforms were the first step of Sovietization and even collectivization. Land tenure system was based in Hungary on private ownership and private use of land, the decrees and laws on land reform were the basic regulations regarding agricultural lands, but no one insisted to codify land law between 1944/1945 and 1948.<sup>1</sup>

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<sup>1</sup> Földes, I. (1976): 20–21.

The changes of international relations and the communist takeover caused turn in economic policy. In Hungary Imre Nagy opposed accelerated industrialization and forced collectivization. The Stalinist version of planned economic system had to be introduced while it was part of preparation for a new world war. The circumstances were very different in the region in economic terms. There was a similar or same trend; the peasantry did resist the “socialist transformation of agriculture”. Tenants and landowners were categorized by the area which they possessed and used. Safety of property rights fluctuated accordingly. The communist regime created a dual legal system and it caused legal uncertainty. Law became tool of forced transformation, while law was also subject of the process. Legal education was no exemption.

## **2. The Beginning of Collectivization and Changing Land Tenure System**

“Laying down the foundations of socialism” and “abolishing the dualism in economy” were the main slogans of the hardliner Stalinist era. The so called dual task in agriculture meant increase of production and parallel mass collectivization. The Stalinist leadership, led by the general secretary Mátyás Rákosi, had incredible visions and set impossible aims.<sup>2</sup> However, the industrialization and collectivization could not change the fact that economy was “hybrid” and it was shaped by elements of war communism and the Soviet New Economic Policy (NEP) in the 1920s. It was even more complicated by the national differences in the region and the transition from capitalism to “socialism”. The implementation of official policy was deformed by the radical Stalinists in many ways. The “kulaks” should have been restricted culturally, economically, socially and politically, and not being liquidated. During the Stalinist era in Hungary, landowners in each category did not have safe property rights, everyone was vulnerable.

The general secretary Rákosi announced in August 1948 in Kecskemét that the peasants should join cooperatives in the future to develop and flourish.<sup>3</sup> In the next year, campaigns were organized to agitate peasants and from the early 1950s the campaigns became more massive. The authorities had permitted more general land consolidations and more landowners were forced to waive land to state. The communist party had a certain aim: “socialize” means of agriculture, including land, thus to abolish private ownership and use of land. There was already a huge contradiction between theory and practice. In December 1948, G. Dimitrov, the Bulgarian communist party leader explained in his speech at the party congress that in the “people’s democracies” nationalization of land is not necessary to collectivize agriculture.<sup>4</sup> Land was just one part of the whole issue, the legal theorists and jurists had problem to concretize the idea of cooperative law in the people’s democracy as well. In the Soviet Union the legal system included theoretically two branches of law linked to agriculture: kolkhoz law and land law. The question was how these two branches should be brought to life while the transformation was not finished in Hungary?

Most of the concerns were raised by the effects of radical economic policy. The difficulties mounted and a crisis was unfolding by 1952. The signals were received by the government and party apparatus, but they were partially ignored. The revised first five year plan in 1951 could not be fulfilled and the collectivization could not be completed in 1952 or 1953 as Rákosi envisaged in the autumn of 1948. Teaching of agricultural cooperative law and land law began under these circumstances in 1951 at the universities. It was also a necessity and a tool at the same time despite the theoretical disputes and controversies. The root of it was the debate on the relation of economy and law, the Soviet concept of base and superstructure. The debate on “economic law” in the early 1950s raised more questions on the transformation of economy and

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<sup>2</sup> Kaposi, Z. (2001): 161–162.

<sup>3</sup> Gyarmati, Gy. (2013): 183.

<sup>4</sup> The thesis which Dimitrov explained was later referred in the literature as the Dimitrov-thesis/Dimitrov-theory.

law. The transition was accelerated by radical measures, but it did not mean that “capitalist” or “bourgeois” legal system could have been replaced with “socialist legal order” rapidly, especially those legal relations which were partially or entirely connected to civil law.<sup>5</sup>

### 3. Legal Education and Debate on Land Law

Replacing law with a new law (private law with a “socialist civil law” for instance) was not an easy task for legal scholars who had disagreements on the pace and extent of the process. Which elements should be kept in the short or long run? Private sector prevailed in agriculture and it made civil law for prominent civil law experts (Gyula Eörsi, Miklós Világgy) more relevant. They did argue that the Soviet legal system included civil law and that economic law should not be taught at all. The discussions did result the creation of agricultural law which consisted of two major areas of law: agricultural cooperative law and land law.<sup>6</sup> Neither agricultural law, nor its two components were recognized as independent branches of law, but Departments of Agricultural Law were formed at the faculties of law at the three main universities, at the Eötvös Loránd Tudományegyetem (Eötvös Loránd University, ELTE) in Budapest, at the Pécsi Tudományegyetem (University of Pécs, PTE) in Pécs and at the Szegedi Tudományegyetem (University of Szeged, SZTE) in Szeged.<sup>7</sup>

The Soviet kolkhoz law and land law were taught at the universities from the early 1950s. In Budapest at the ELTE the Department of Agricultural Law was headed in the mid-1950s by Miklós Világgy, in the following years by Zsigmond Medve and from the end of the 1950s by Imre Seres. In the 1950s in Pécs Lőránt Rudolf (1950–1958), Tibor Pap (1958–1959), and Iván Földes (1959–1981) were the heads of the department, in Szeged József Perbír (1951–1957) and László Nagy (1957–1984) in the time period between 1950 and 1968.<sup>8</sup> An author collective prepared the new material for education at the universities, the syllabus of agricultural law. Textbooks on agricultural cooperative law and land law were drafted separately by various authors, but in the 1960s an author collective prepared again the textbook of both de facto branches of law.<sup>9</sup>

The economic and legal situation was paradox, without complete mass collectivization of agriculture and abolishment of private ownership and use of land it was arguable if there was agricultural cooperative law and land law. At the same time, these “non-existing” branches of law facilitated collectivization, while emphasis was put on land use and legal issues of agricultural cooperatives.<sup>10</sup> The agricultural law had theoretically and practically until mass collectivization a mixed legal content, it was connected to civil law and regulated private and collective farming. Therefore, agricultural cooperative law and land law were not less complicated in legal terms. From an economic point of view, the same features characterized economic theory. The dictatorship of proletariat in the people’s democracies was not the same as the Soviet communist state model. Theoretically, land law embraced all regulations on land ownership and use; all legal relations linked to land, however, this “socialist land law” focused on land use as the Soviet did. It had to prevent further “capitalist exploitation” of workers in the constantly accelerating “class struggle”.

During the radical Stalinist transformation of social-economic conditions the codification of agricultural cooperative law and land law were off the table. Land policy was carried out in an

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<sup>5</sup> Cserne, P. (2004): 50–51. Verebics, J. (2017): 68–72.

<sup>6</sup> Szabó, I. (1950): 45. *Vita a magyarországi gazdasági jog kérdéséről II.* 1951: 595–597.

<sup>7</sup> Medve, Zs. (1959a): 34–39. Földes, I. (1976): 9–15. Veres, J. (1976): 61–67. At the Faculty of Law in Pécs and in Szeged it was the Department of Agricultural Law and Labor Law because of shortage of faculty staff.

<sup>8</sup> Data was gathered from the almanacs of the universities which were published digitally. Lengyel, B. (1956): 147. Lengyel, B. (1958): 171. Polyák, P. (2017): 139, 152–153. Szentirmai, L. – Iványi, Sz. É. – Ráczné, M. K. (1996): 56, 58.

<sup>9</sup> Földes, I. (1976): 27.

<sup>10</sup> Medve, Zs. (1959a): 35.

extreme way which led to exodus of private farmers from the countryside. Not just “kulaks” but also “working peasants” left arable land uncultivated and waived land. Forced land consolidations made farming more fragile. The political, economic, social and legal framework of transition from capitalism to “socialism” was compared to the Soviet New Economic Policy. There was no real discussion on the transition and NEP and on its application during Stalinization; however, the main political figure who was responsible for economic issues in the party leadership, Ernő Gerő emphasized the ambivalent character of the transition. It was a combination of NEP and Stalinist planned economy in his view. The need of rapid transformation deformed official policies and did not put an end to the controversy. The NEP narrative appeared in legal theory by Gyula Eörsi in mid-1951, when he argued for the necessity of codification of civil law. He claimed that in the transition phase which was similar to the Soviet NEP, legal relations to private property (including land in agriculture) had to be regulated in civil law accordingly. Private farmers produced most of the agricultural products and it was the key of his argument.<sup>11</sup> Miklós Világhy echoed the argument some years later in an article which was published during the “new course”.<sup>12</sup>

In mid-1952 the communist leadership, the Politburo decided to slow down collectivization. In the second half of the same year the administration and party organs started to revise the economic situation. Imre Nagy was appointed Deputy Prime Minister in November 1952. In the first half of 1953 corrections were prepared in agrarian policy. The leftist deflection was condemned more sharply in the spring of 1953. The slight shift made probably the questions on agricultural law more important. The first textbook of agricultural law was published in 1952 and in 1953, its second volume in 1954. Both were edited by Iván Földes.<sup>13</sup> From the mid-1953 the “new course” triggered real and deep controversy on law, and legal scholars and experts started new discussions on legal issues, including land law.<sup>14</sup> At the 9<sup>th</sup> council meeting of the Faculty of Law at the ELTE on 1<sup>st</sup> of July, 1953 just some weeks after the Hungarian delegation was criticized in Moscow and after the meeting of the Central Committee at the end of June, three days before the announcement of the “new course” by Imre Nagy, jurists were discussing agricultural law in legal education and the second volume of its textbook.<sup>15</sup> As it was presumably known at that time, in Czechoslovakia an internal and a public discussion had to decide if agricultural cooperative law was a separated branch of law in the legal system or not. The Czechoslovak jurists’ opinion was that it was a branch of law.<sup>16</sup> This matter got more magnitude after the XIX congress of the Soviet communist party in October 1952. Some Hungarian scholars argued that agricultural cooperative law should be taught as a branch of law and not as part of agricultural law. The meeting on 1<sup>st</sup> of July concluded that this matter should be discussed further by a committee and until its decision, agricultural law should be taught at the Department of Agricultural Law, divided into two main areas: agricultural cooperative law and land law.

During the “new course” and after it, discussions continued on land law more intensively. Land legislation, agrarian policy, economic policy, legal theory and education did have impact on each other and had interaction. First, legal and educational materials did reflect the ideas and viewpoints of legal theorists. Second, jurists were involved in legislation, debates on legal theory

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<sup>11</sup> Eörsi, Gy. (1951): 238–245.

<sup>12</sup> Verebics, J. (2017): 56.

<sup>13</sup> Veres, J. (1976): 64.

<sup>14</sup> Ibid. 64–65.

<sup>15</sup> Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Karának ülései, 1952–1953 (HU ELTEL 7.a.51.). Council meeting on 1<sup>st</sup> of July, 1953. 185–195. [https://library.hungaricana.hu/hu/view/ELTE\\_AJTK\\_KARI\\_1952-53/?pg=1&layout=s](https://library.hungaricana.hu/hu/view/ELTE_AJTK_KARI_1952-53/?pg=1&layout=s) (Date of access: 26.10.2021)

<sup>16</sup> Jabláczy, J. (1953): 499–501.

affected policy makers and legal actions, as well as actual political direction did impact legal policy, legislation and legal education. A significant change was undoubtedly the change of head of the Department of Agricultural Law at the ELTE in late 1959 in this regard, when Imre Seres was appointed to the position. After that, from the 1960s, he was the main or co-editor of many textbooks on agricultural law, agricultural cooperative law and land law. He published two interesting articles in the mid-1950s, one on land property relations in the people's democracies in 1954, and one on land property relations in Hungary in 1955.<sup>17</sup> He argued vehemently after 1956 that cooperatives should be able to acquire agricultural land. As a candidate the title of his dissertation was "The ownership right of land in the agricultural cooperatives".

Most of the articles on the discussion of land law were published in the *Journal of Law (Jogtudományi Közlöny)*. From 1953/1954, a very complex legislation started, which included the preparation of a Civil Code. Governmental committees were established to draft laws on various areas of law which were connected to civil law. This process included agricultural cooperative law and land law. The Soviet experiences were taken probably into consideration; in the NEP period civil law and land law were both codified. One of the main differences was that agricultural land was generally in private ownership in Hungary. The Ministry of Justice submitted a proposal on the preparation of a Civil Code and a Penal Code on 6<sup>th</sup> of November, 1953.<sup>18</sup> At that time, an article was published by Pál Halász, a legal scholar at the University of Pécs, who argued that the agricultural cooperative law should be recognized as a branch of law. Furthermore, every prerequisite was met to form land law as a branch of law. Halász referred to some other scholars who raised doubts on this view in the past.<sup>19</sup> Without exaggeration, the legal controversy contributed to the ongoing codification of land law and legal education. According to the protocols of the council meetings of Faculty of Law at the ELTE, the Land Code had to be drafted parallel with the Civil Code and it should have regulated legal relations to land on a temporary basis.<sup>20</sup> No sources indicate that a Cooperative Code had been prepared. The Political Committee of the Hungarian Workers' Party made a decision on questions of legislation on 18<sup>th</sup> of August, 1954; cooperative law should not be codified (there was no "cooperative code" in the Soviet Union either), and the further codification of land law remained doubtful.<sup>21</sup> Despite the debate, textbooks were published on land law. The jurists were divided on the issue; some of them did want land law to be codified and recognized as a branch of law and taught separately, some of them opposed this idea.

Zsigmond Medve (who was teaching law partially in the 1950s in the Department of Soviet Law at the ELTE), published an article on the tasks of jurisprudence which were linked to the decisions on developing agriculture.<sup>22</sup> The Legal Committee of the Hungarian Academy of Sciences organized a discussion on the article in February 1955.<sup>23</sup> Medve argued for the recognition of agricultural cooperative law and land law as separated branches of law. The discussion was probably at that time part of the process of codification of land law. During drafting the Civil Code, property rights and other legal relations were put in the foreground. The theoretical disagreements on that issue reflected ideological and other obstacles in legislation. How to describe the private landownership in the cooperatives? Miklós Világhy and others

<sup>17</sup> Seres, I. (1954). Seres, I. (1955).

<sup>18</sup> Baráth, M. – Gecsényi, L. (2018): 748–751.

<sup>19</sup> Halász, P. (1953): 428–432.

<sup>20</sup> Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Karának ülései, 1953–1954 (HU ELTEL 7.a.52.) Council meeting on 30<sup>th</sup> of January, 1954. [https://library.hungaricana.hu/hu/view/ELTE\\_AJTK\\_KARI\\_1953-54/?pg=95&layout=s](https://library.hungaricana.hu/hu/view/ELTE_AJTK_KARI_1953-54/?pg=95&layout=s) (Date of access: 27.10.2021)

<sup>21</sup> National Archives of Hungary (Magyar Nemzeti Levéltár, MNL OL) M-NS 276. f. 53. cs. 190. ő.e. 5. Proposal on some principles of the civil code, land code and penal code.

<sup>22</sup> Medve, Zs. (1954): 452–468.

<sup>23</sup> Nagy, L. (1955): 309–314.

“invented” the term “partial private ownership”, but some other jurists disagreed and preferred “restricted private ownership” instead.<sup>24</sup> Medve published another article in April 1956 on ownership right of the land which was brought in the cooperatives. The Hungarian Academy of Sciences’ Legal Committee held a discussion on that paper in March 1956.<sup>25</sup> According to the participants’ accounts which were published some months later, the scholars focused on the problem of “partial private ownership”. Medve and Seres had concerns to use the term. Meanwhile, the discussion continued on land law. Some of the jurists accepted the view that agricultural cooperative law exists, but denied land law as a branch of law. Eörsi claimed that according to the current legal, economic and social circumstances, none of them should be recognized as a branch of law. Iván Földes argued that land law should develop further to become a branch of law.<sup>26</sup>

The Civil Code was partially prepared when a discussion was held in Szeged on civil law in legal education, including property rights and land law on 24–25<sup>th</sup> of April, 1956.<sup>27</sup> The participants continued the dispute which included this time the property rights of private households of cooperative members for instance. Seres definitely rejected the idea of “partial private ownership” and declined to call the private households of cooperative members “personal ownership”. 1956 was a decisive year from many perspectives. Khrushchev’s “secret speech” had huge impact on the communist system and Re-Stalinization ultimately failed. The Council of Ministers decision on a new cooperative law on 4<sup>th</sup> of September, 1956 was announced in the Official Gazette (*Magyar Közlöny*). The Ministry of Justice proposed to completely establish the “democratic legal system” of the people’s democracy. Governmental committees had to be formed on the legal questions of cooperatives and land. The committees began their work delayed by the revolution; nevertheless a general cooperative law, agricultural cooperative law and cooperative land law were drafted in 1957.<sup>28</sup> Cooperatives could acquire land almost in all communist dictatorships in the region, but not in Hungary. The ideological framework determined land “socialization” which could be occurred by nationalization. Those people, who insisted to Soviet pattern and declined other solutions, were called for instance by Seres dogmatists.<sup>29</sup> “Cooperative land ownership” was not a central issue, however, some legal theorists argued against it, like Zsigmond Medve.<sup>30</sup> The discussions probably did not focus on that question, and it was not a main topic in agrarian policy. Despite these assumptions, the importance of land ownership cannot be denied. Seres argued after 1956 more frequently to allow cooperatives to acquire land; his idea was based on international experiences.<sup>31</sup> He pointed out in May 1958 at the V congress of the Hungarian Jurists’/Lawyers’ Association that land law was a branch of law and it should be codified.<sup>32</sup>

Regarding mass collectivization, cooperative land ownership was not the most decisive factor. It did not interest the peasantry so much how legal scholars would describe ownership

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<sup>24</sup> Földes used the term partial private ownership on land already in an article on cooperative law in 1951 and referred later in the text to Dimitrov’s speech. Földes, I. (1951): 180–181.

<sup>25</sup> Sárándi, I. (1956): 434–439. Nagy, L. (1956): 500–505.

<sup>26</sup> Eörsi, Gy. (1954): 331. Eörsi, Gy. (1955): 333. Földes, I. (1955): 522, 524.

<sup>27</sup> Németi, L. (1956): 557–563. Szegedi Tudományegyetem Állam- és Jogtudományi kar ülései, 1955–1956. Council meeting on 24–25.04.1956. [https://library.hungaricana.hu/hu/view/SZEGED\\_SZTE\\_JogiKT\\_1955-1956/?pg=201&layout=s](https://library.hungaricana.hu/hu/view/SZEGED_SZTE_JogiKT_1955-1956/?pg=201&layout=s) (Date of access: 29.10.2021)

<sup>28</sup> Pál, J. (1997): 234.

<sup>29</sup> Seres, I. (1957): 128. Sárándi, I. (1959): 692. Seres, I. (1963): 74–75. Seres, I. (1967): 151–153.

<sup>30</sup> Medve, Zs. (1959b): 215.

<sup>31</sup> Seres, I. (1957): 126–134. Sárándi, I. (1959): 691–694. Bak, J. (1959): 666–668.

<sup>32</sup> Patkós, L. (1958): 293–294. The Hungarian Jurists’/Lawyers’ Association was reorganized in 1949 and it held its first congress in Hévíz. According to historical accounts, the Soviet delegates raised concerns about economic law at the meeting and that triggered more discussions on the matter among Hungarian legal scholars.

forms, but people did want private ownership. When land was taken in collective use, landowners did want keep their property rights, and to get rent or other compensation for the collective use of land. Jurists and agrarian politicians claimed that acquiring land could be a huge financial burden, so cooperatives should not buy land.<sup>33</sup> The Civil Code came into force in 1959 as well as a decree of the presidential council on the agricultural cooperatives.<sup>34</sup> Mass collectivization was already in progress at that time. Some elements of former discussions were regulated on a temporarily basis, some permanently, also land was part of legislation to a necessary extent; it was not codified but remained subject of further changes. Because private ownership of land was not abolished, socialization of means of production was not fully finished. Private land use was socialized, and land policy measures aimed to deal with cases linked to private ownership of land and collective land use to a much larger extent than ever before. Around 1959/1960 another significant change occurred; agrarian reformers took over the Ministry of Agriculture. Reforming planning mechanism, state control and supervision, remuneration system and some organizational elements of cooperatives got priority.

The events in 1959 (beginning of mass collectivization, legislation) were partially decisive in the legal controversies. However, as mentioned, legal questions and problems remained unsolved. Many of the jurists accepted that agricultural cooperative law and land law became a separated branch of law in the legal system with the completion of mass collectivization.<sup>35</sup> The Legal Committee of the Hungarian Academy of Sciences organized a discussion on 23<sup>rd</sup> and 29<sup>th</sup> of May, 1959 on the theses of Vilmos Peschka's work "The Hungarian Peoples' Democracy's Legal System and its Division". Gyula Eörsi and Miklós Világhy admitted that land law became a branch of law but it should develop further.<sup>36</sup> The changes did affect logically legal education, and from the early 1960s both branches of law were taught separately.<sup>37</sup>

After 1961, the Ministry of Agriculture assigned legal experts to draft laws as framework regulation for the collectivized agriculture. Imre Seres had to draft a general land code which was partially prepared by the beginning of 1963. Other aspects of land policy and land law were put in focus in the 1960s (securing cooperative land use, keeping land together and land consolidation), while land ownership was naturally part of the legal issues. The published legal materials, articles and sources do not indicate that there was a huge discussion on land law between 1961 and 1966/1967. In 1968, Ferenc Erdei started a "theoretical debate on cooperatives" with his article which was published in *Social Review (Társadalmi Szemle)*.<sup>38</sup> Land was not the main topic of the debate, but in 1967 a land law was promulgated along with a new law on agricultural cooperatives and next year the new economic mechanism was also launched. The abolishment of private land ownership continued by establishing cooperative land ownership. Despite no published debates were on this issue before 1966/1967, the agrarian reformers could support the idea of this form of ownership because it was acceptable for the peasantry in their eyes. The IX congress of the Hungarian Socialist Workers' Party in November and December 1966, officially confirmed the new type of land ownership.<sup>39</sup> It was a unique way

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<sup>33</sup> Nagy, L. (1965): 129–130.

<sup>34</sup> Magyar Közlöny, 1959, No. 82, Law No. 4 on the Hungarian Peoples' Democracy Civil Code. 11<sup>th</sup> of August, 1959. Magyar Közlöny, 1959, No. 12, Decree No. 7 of the Presidential Council of the Peoples' Republic on the agricultural cooperatives and cooperative groups. 25<sup>th</sup> of March, 1959.

<sup>35</sup> Földes, I. (1976): 15.

<sup>36</sup> Peschka, V. (1959): 479–480.

<sup>37</sup> Medve, Zs. (1959a): 35. In Czechoslovakia land law was taught also within the framework of agricultural law until 1962. *Egyetemi Lapok, az Eötvös Loránd Tudományegyetem Lapja*, 4. évfolyam, 36. sz. 1962. december 15. 5. oldal. A magyar földjog alkalmas értékes tapasztalatok szerzésére.

<sup>38</sup> Földes, I. (1976): 28–29.

<sup>39</sup> Népszabadság, 24. évfolyam, 281. sz. 1966. november 29. 5. oldal. A Magyar Szocialista Munkáspárt Központi Bizottságának beszámolója. Kádár János elvtárs előadói beszéde. Népszabadság, 24. évfolyam, 285. sz. 1966.

of socialization or collectivization of private land ownership and Imre Seres could have major part in its legalization and legislation.

#### **4. Land Law as a Branch of Law and its Codification**

The codification of land law began in the spring of 1954. Legal theorists, legislators and agrarian politicians envisioned a general land code at that time. A draft was indeed prepared, but it did not end the controversy around the question of land law as a branch of law and on the details of the code.<sup>40</sup> When the codification stalled in the spring of 1955, debates continued as detailed above. Despite its importance, the public could not learn about this matter more from newspapers or other public sources. The published articles were probably “filtered”, and there were literally just few words about the codification of land law, for instance in 1955.<sup>41</sup> After 1955, until 1957 nothing can be found on this issue, Seres wrote an article in 1957 to convince others to accept cooperative land ownership; he referred to the cooperative land law, which meant the partial codification of land law.<sup>42</sup> Numerous newspapers did publish articles on the new laws on cooperatives and land in 1957, for instance the *Esti Hírlap*, the *Magyar Ifjúság* and the *Csongrád megyei Hírlap*.<sup>43</sup> After 1957, codification of land law had no publicity, just in 1966/1967, but the new law on land which was then prepared was not general codification, rather a partial one as in 1957 with focus on land rights and its legal relations in cooperatives.

The Ministry of Justice prepared the cooperative land law in 1957, a partial land code which can be considered as a unique attempt in the socialist camp. The law would have regulated legal relations to land in the cooperatives. It can be assumed that the then dogmatic leadership of the Ministry of Agriculture rejected the idea of such a law as well as other agrarian politicians who would stimulate reforms in the cooperative sector of agriculture. In addition, there are no first hand sources and information on the opinion of agrarian politicians like Imre Nagy, Ferenc Erdei, Lajos Fehér and Pál Losonczi about the land law debate and codification between 1948 and 1968. The “sudden” announcement of the introduction of cooperative land ownership at the end of 1966 at the party congress could surprise many people who were not in the inner policy making mechanism. In fact, by the beginning of 1966 the Political Committee proposed to analyze the possible ways of its introduction. Then, as it was originally initiated in the 1950s, a law on cooperatives and a law on land were announced at the same time, latter created legal framework of cooperative land ownership, furthermore connected to each other various legal issues on land. Land law was not codified mainly because the communist regime did want more change in land tenure system, and 1967 marked a breakthrough in this regard. On the one hand it was surely doubted by many hardliner communists who did not want to change former ideological framework, on the other hand it meant the continuation of abolishment of private land ownership in a gradual way. The change was naturally interpreted as part of the economic reform.

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december 3. 6–7. oldal. Fehér Lajos: Szocialista alapokon fejlődik a magyar falu.

<sup>40</sup> MNL OL XIX-K-16-a, 42. ő.e. 9640-8/1954. sz. Thematic draft of the general land code, 19<sup>th</sup> of May, 1954.

<sup>41</sup> Nagy, L. (1955): 311. Földes, I. (1955): 524.

<sup>42</sup> Seres, I. (1957): 126–134. MNL OL XIX-K-1-y, 1479. ő.e. 153.834/1957. sz. Draft of the cooperative land law, 27<sup>th</sup> of May, 1957.

<sup>43</sup> *Esti Hírlap*, 1957, 2. évfolyam, 127. sz. 1957. június 2. 1. oldal. Fontos törvényjavaslatokat, rendeleteket jelentett be ma az igazságügyminiszter. *Esti Hírlap*, 1957, 2. évfolyam, 136. sz. 1957. június 13. 1. oldal. Új szövetkezeti és földjogi törvény készül. *Magyar Ifjúság*, 1957, 1. évfolyam, 22. sz. 1957. június 1. 1. oldal. Fontos törvényjavaslatokat vitat meg az országgyűlés. *Csongrád megyei Hírlap*, 1957, 2. évfolyam, 127. sz. 1957. június 2. 1. oldal. Milyen igazságügyi vonatkozású törvényjavaslatok kerülnek az országgyűlés elé? József Pál mentioned in his article in 1997 the law on land from 1957. Pál, J. (1997): 237. There is almost nothing on the land law debate and codification of land law in the literature. Most of the authors did focus on the law on land from 1967 without elaborating its preparation and origin.



The codification was not a secretive process, but many parts of it were kept in secret. It is more interesting that the authors of the textbooks, who were involved in legislation, did not mention many of these parts of codification. It was for instance not widely known that Seres was assigned to draft a general land code in 1962 which was partially prepared.<sup>44</sup> It is not a coincidence in this context that Seres, who himself took part in drafting the new agricultural cooperative law and the law on land in 1966/1967 (the new agricultural cooperative law was in preparation almost since the end of mass cooperativization), edited the new textbook of land law and it emphasized the need of a general land code.<sup>45</sup> The agrarian reformers probably tried to push for a general land code in 1968 after the promulgation of the new laws on cooperatives and land.<sup>46</sup> The Hungarian land law was finally codified de facto generally in 1987, two decades later. The possible debates on land law and the attempts of its codification between 1968 and 1987 are beyond of this article's scope.

## 5. Summary, Results and Conclusions

The most intensive phase of the Hungarian land law debate was between 1953 and 1959. A new generation of jurists contributed to the controversy which became even more relevant in legal theory. One of the main elements of the debate was the following question: is land law a branch of law and can it be codified without nationalization of land? Putting "socialist land use" or collective land use in the center of legislation was simpler in theory than in practice. Private land ownership was abolished more rapidly by the radical implementation of land policy. Despite the intentions of the communist leadership, law itself could not transform society and economy in a short period of time. Collectivization risked agricultural production. The major change in economic policy was one of the main factors which triggered more discussions on legal theory, the transition phase and the NEP.

Creating new legal system on the Soviet pattern was also challenging in other countries in the Eastern bloc. Jurists faced similar or same problems regarding agricultural cooperative law and land law as legal theorists in Hungary. The party's agrarian policy and its two main elements, cooperative and land policy, as well as the codification of civil law affected the most the debate on land law. The controversy deepened by Stalinization, De-Stalinization and Re-Stalinization, collectivization and the problem of transition from capitalism to socialism. Many authors referred in the literature to the "Dimitrovian-road" which meant collectivization without the complete abolishment of private ownership of land. Other forms of landed property were analyzed and Imre Seres was convinced already in the 1950s that cooperative land ownership would be a perfect form of ownership in the transition. More research should be done to assess international patterns and interactions between the Soviet Union and the peoples' democracies, and also the countries of the socialist camp.

The communist land reform did not become the basic law on land, but it could have been the basis of land tenure system for a long time. Land legislation made land law a branch of law from 1948/1949 which was shaped in the next two decades by economic policy overall. The process was full of controversies, while the new branches of law were not codified, however, that made

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<sup>44</sup> MNL OL XIX-K-1-b, 579. ó.e. 2442/1963. sz. Memo on the draft of general land code. Secretariat of the Ministry of Agriculture, Department of Administration, 21 February 1963.

<sup>45</sup> Seres, I. (1969): 29–30.

<sup>46</sup> They did want probably strengthen the conception of cooperative land ownership that way. *Népújság*, 18. évfolyam, 216. sz. 1967. szeptember 13. 3. oldal. *Kié a 60 négyszögöl?* *Somogyi Néplap*, 1967, 24. évfolyam, 232. sz. 1967. szeptember 30. 2. oldal. *Illés Dezső: A földjoggal összefüggő régi rendeleteket revízió alá kell venni. Egységes földjogi kódexet.* *Petőfi Népe*, 1968, 23. évfolyam, 33. sz. 1968. február 9. 4. oldal. *Az új földtörvény és végrehajtása.* *Kelet-Magyarország*, 1968, 25. évfolyam, 142. sz. 1968. június 19. 3. oldal. *Háromszáz jogszabály helyett kettő.* Some sources indicate that the general land code was in preparation in 1968.

legislation more flexible. During the “new course” strengthening private land ownership was on the agenda, but most of the jurists and politicians considered such measure as a temporary and necessary action which is part of a transition. In case land law would have been codified in 1954, hardliner Stalinists could have argued that it could pose as an obstacle for further collectivization of agriculture. After mass collectivization legal theory and agrarian policy created a peculiar form of abolishing private land ownership.

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