

CROSSMARKETS

INSTITUTIONAL COOPERATION TO PROMOTE CROSSBORDER SALES OF LOCAL PRODUCTS

PART 5: POLICY RECOMMENDATIONS

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The aim and task of this paper

The goal of b-Solutions programme, financed by the European Commission, is to support pilot projects aiming at exploring and overcoming legal and administrative obstacles which block cross-border cooperation.

The CrossMarkets project of the Pannon European Grouping of Territorial Cooperation is implemented within this framework: it examines the cross-border sales possibilities of local products in the border region of Hungary and Croatia by comparing the present legal and administrative frames with the producers' demands and expectations and it proposes measures aiming at facilitating the cross-border sales opportunities of local products.

It is important to mention that the local product marketplaces require development not only in terms of cross-border sales but also in terms of local sales and marketing. That is why awareness raising, formulating well-informed consumer behaviour for favouring local products, producers' cooperation and other interventions must be performed not only on the level of cross-border product sales but on national level too.

Policy recommendations

The target group of the policy recommendations, in accordance with the goals of Crossmarkets project, is the small-scale producers: in Hungary they are the primary agricultural producers (including small-scale producers and family farmers) in Croatia these are family farms (OPGs). They represent a producer's circle overlapping each other from a legislation point of view: individuals or families living and farming locally, who produce agricultural products typically in small-volume for their own living.

Related legislation

HU: Act CXVII of 1995 on Personal Income Tax; Act CXXII of 2013 on Transactions in Agricultural and Forestry Land
H,R: Zakon o obiteljskom poljoprivrednom gospodarstvu, 585 NN 29/2018

Hereinafter the Hungarian primary agricultural producers (including small-scale producers and family farmers) and the Croatian OPGs (hereinafter referred to as local producer) are referred to jointly as *local producer*.

There is no harmonised legislation in the EU concerning the small-scale production and sales. Beyond the legal harmonisation of general rules, the legislation of small-scale production is the competence of the member states. **The promotion of small-scale producer's food production and sales appear as a goal both in the Hungarian and Croatian legislation.**

Now, the local primary agricultural producers have special status in the national level legislation. In several cases concerning local product sales, compared to companies, there are favourable conditions (either tax reduction, light food-hygiene rules, etc.). **Since the legal harmonisation between the two countries has not been implemented yet, these special rules and reduced conditions cannot be "brought across" the border, i.e. a product can only be considered as local product if it is produced in the given country;** in other member states these products are under the regulation of general food-security and trading. According to the EU directive concerning the free movement of goods, there is possibility for selling these products in other member states, but in this case these products need to meet the requirements of general import sales provisions instead of legislations concerning local products. This, besides several other obstacles (language difficulties, lack of information, scarce financial resources) paralyse the efforts and possibilities of cross-border sales.

The cross-border sales promotion of local agrarian products can play an important role in providing fresh and healthy food for the people living in the border region, in the market enlargement possibilities of local producers and family farmers and by that in the increase of population-retain power of the country. It can also contribute to the integration of the border region.

It is inevitable, however, to remove present barriers which requires targeted and intergovernmental policy interventions.

There are several solutions to support this producer's-circle, which require policy commitments on different-level: from indirect incentives and removing administrative obstacles to direct subsidies.

The policy recommendations below introduce these possibilities (based on the results of needs and gap analysis of Crossmarkets project):

1. Easing or removing administrative obstacles within the framework of intergovernmental cooperation

If a local producer finds a favourable business opportunity in sales over the border besides the present tax and cost burdens, the task of the policy maker is not to hamper this activity with surplus administrative burdens. According to this, **the aim is to ease or remove administrative difficulties of cross-border sales with joint cooperation between the two countries.**

Such difficulties are the registration obligations, certificates by authorities and supervisions. **The aim of the intervention is to develop a common system of public authority administration in order to have reduced administration burdens of cross-border sales for the producer coming from the other side of the border.** I.e. the two countries mutually recognise the certificates concerning local producers issued by the other country's public administration, so a certified producer of one country should be recognised by the other as a certified producer, so a registered producer of one country should be recognised as a registered producer in the other country; if one obtains a public authority certification it should not be supervised by the other member state, etc. **It requires close cooperation between the two countries, which, besides legal harmonisation, may also require the ensuring of bilingual service and the training of the competent authorities.**

Proposed interventions:

a) Standardisation of operational conditions of marketplaces, providing bilingual administration

According to both the Hungarian and Croatian regulations, **the operational conditions of marketplaces are defined by the marketplace operator** (in accordance with legal regulations) and it is his duty to inform the sellers in an announcement that should be placed in a distinct spot about the opening hours of the market, its operational order, the tariffs and the rules of sale. Knowing these pieces of information is a basic condition in order to sell in a market.

It is an important task concerning the expansion of cross-border producers' sales possibilities to provide the availability of information (the operational rules and marketplace policy, as well

as the tariffs) in the national language of the other member state. **It is practical**, in cooperation with the marketplace maintainers and operators, **to standardize the content of the marketplace policy** (the main regulations). It would be helpful to have common bilingual templates (either for the marketplace policy or for a municipal decree regulating the operation of the marketplace). By using a template, the operator of the given marketplace simply fills in the data and information (e.g.: opening hours) that features the given marketplace.

The market operator must register the producers and sellers of the marketplace (name, address, farm, place of production, registry number and products).

Related legislation

HU: Government Decree of 55/2009 (III.13) on fairs, markets and shopping centres, Municipal decrees

HR:

Zakon o komunalnom gospodarstvu, 1393 NN 68/2018
Önkormányzati rendeletek

By preparing bilingual (downloadable) templates standardized by markets (the more it is standardised the easier it can be filled – e.g. the products should be multiple choice instead of free texting) **the cooperation between the seller and the market operation becomes smoother.** Besides compulsory data, it may contain other information, which might be important for customers (e.g.: bio-farm trademark). It can play an important role in building buyers' trust.

It is recommended to organise a forum for marketplace maintainers and operators to have the opportunity for standardizing the marketplace policies and templates so as to apply a unified system of rules.

b) Providing possibility for selling Croatian products in the Hungarian producer's markets

In Croatia, in the open-air retail outlet for selling agricultural products and food (e.g.: marketplaces and fairs), natural persons producing agricultural products can freely sell their own products (special regulation). As opposed to Hungary, where, according to present regulations (except for the capital), only such small-scale producers can sell their products, whose farm (where the agricultural or food product is produced) is located in the county where the market is, or in the 40km radius of the market. **By that, the Hungarian regulations on small producers' market excludes the selling of Croatian products. Thus, the modification of the Hungarian regulation is necessary** in such a way that the possibility of selling products by the Croatian OPGs in the Hungarian small producers' markets should be provided.

Related legislation

HU:

Act CLXIV of 2005 on trade

HR:

Uredba o mjerama sprečavanja nedopuštene prodaje roba na tržnicama i drugim otvorenim prostorima (1151 NN69/2001)

c) Providing the interoperability of local producers' register

Both the Hungarian and Croatian legislation apply different rules regarding announcement and registry obligations: local producers must register themselves and their activities in the national registers.

- According to the Hungarian rules, the primary agricultural producers must have a valid primary agricultural producer's licence and they can only sell products which come as a result of their own, registered primary agricultural producer's activity. The competent authority to issue the licence is the county office of the Hungarian Chamber of Agriculture's closest to the client's declared address or the place of stay. The public register is maintained by the Food-chain Safety Office (NÉBIH) in the food-chain surveillance information system.
- The small-scale producer has to declare the beginning of his activity, the main changes in the activity, the temporary ceasing or the end of his activity to the territorially competent urban district authority office (the territorially competent District Animal Health and Food Inspection Office of the Food- Safety and Animal Health Directorate of the County Government). The territorially competent urban district authority registers the small-scale producer and gives him a registry number.
- Family farms are also needed to be registered. Registry is made by the territorially competent urban district authority closest to the centre of the family farm.

Related legislation

HU:

Government decree of 436/2015. (XII. 28.) on primary agricultural producer's licence
Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural and food production and selling
Government Decree of 326/2001. (XII. 30.) on the creation, registration, operation and special subsidies of family farms

Act CLXIV of 2005 on trade

HR:

Uredba o mjerama sprečavanja nedopuštene prodaje roba na tržnicama i drugim otvorenim prostorima (1151 NN69/2001)

- In case the producer wishes to perform selling activity subject to the Act CLXIV of 2005 on trade, the start of the trading activity must be declared to the territorially competent notary according to the location of the activity. The notary issues a certificate about the declaration.
- If the small-scale producer or family farmer wishes to do his activity as a sole entrepreneur, he needs to have a sole entrepreneur licence, which can be obtained personally at any urban district government window or record office.
- The Croatian OPGs, their activity and producing resources must also be registered at the competent authority. Complementary activities (beyond basic activity, regulated by legislation) must also be registered. The register is maintained by the Agricultural, Fishery and Country Development Paying Agency.

Since the authorities, responsible for registry and inspection, do not have competency on the other side of the border, harmonisation of the registration and the records is not possible at the moment.

By the permeability of these registers the records become available for the authorities of the other country. So the local producer should meet these obligations only once, in his home country, and it would be approved by the other member state, that is, a licensed producer in one country may become a licensed producer in the other (or at least his entitlements can be available and controllable on the other side of the border).

It is necessary to have a **bilingual system** together with the **exchange of information** necessary for the competent authorities and other actors (e.g.: market operators) as well as with **the training of the officers of the authorities.**

d) Mutual acceptance of different authorisations, proving warrants and certificates issued by the authorities

Local producers **face several different inspections on food-hygiene and food-safety and they need to have different authorisations and certificates.** Besides, they have obligations concerning packing and information on their products. **Compliance with the provisions of the legislation on trade activity can be inspected and controlled by several competent authorities** (e.g.: local municipality, public health and animal health authority, consumer protection authority, work safety authority).

- According to the Hungarian legislation, the registry number of primary agricultural producer's licence must be put in a clearly visible place on the location where he is selling; besides he is obliged to put the caption *"This product is produced as a result of my own primary agricultural producer's activity"* in a clearly visible place on the product or on the location of selling. The health state of the person dealing with the production and selling of the product must be certified by the general practitioner. Basic, non-processed and processed (milk, cheese, salami) products of animal origin requires veterinarian's certificate, which is issued by the authorised veterinarian of the district authority for the request of the small-scale producer. The certificate (or the copy authorised by the veterinarian) must be kept on the location of selling. Fresh meat or meat products can only be sold if there is a meat-transport certificate issued by competent veterinarian or the competent authority. In case of own products, the origin of the non self-made product must be proved by a duly issued proving warrant. Special products

Related legislation

HU:

Government decree of 436/2015. (XII. 28.) on primary agricultural producer's licence
 Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural and food production and selling
 Rural Development Ministry decree of 51/2012. (VI. 8.) on the food-safety conditions of selling in local producer's markets

Health Ministry decree of 59/1999. (XI. 26.) on the public health regulations of selling in fairs, open air markets and marketplaces.

HR:

Ministarstvo Poljoprivrede
 Pravilnik o Prodaji o mjerama prilagodbe zahtjevima propisa o hrani životinjskog podrijetla, 51/2015(1003)
 Zakon o poljoprivredi, 612 NN30/2015

have separate legislations as well. The decree on the conditions of small-scale producers of agricultural and food production and selling details the rules of primary production and of the treatment, storing and transporting of basic products by the small-scale producer as well as of the processing, storing and transporting of the processed products. Besides the conditions of market selling and food-safety as well as the public health rules of market selling must be complied with.

- In case of direct retail trade, the owner and the member of the OPG are obliged to keep their ID cards, the decree on the registry of agricultural holdings as well as other warrants depending on the sold products and they are obliged to present it by the request of an authorised person. The small-scale producers, processing products of animal origin as well as small-capacity facilities can operate according to lite hygiene rules.

It would be **an extreme relief for the local producers if the two countries mutually accepted each other's certificates**. The aim is that the other member state's authorities accept the certificates of the national authorities, and by that the duplications of inspections by the authorities would not mean further burdens on the producers.

Bilateral agreements and intergovernmental cooperation is needed for the harmonisation and mutual acceptance of certifications and warrants issued by different authorities.

e) Applying standardised (lite) food-hygiene requirements, other safety regulations and minimum requirements

The prerequisite of the actions proposed in the previous section is that the two countries would apply standardised (and lite if it is possible) food-hygiene-, food safety conditions and other minimum requirements. The standardisation of authority inspections would be realised and bilingual (coded and multiple choice) certificates, warrants and other registers would be available.

It is worth examining the possible joint applicability of the present facilitations of the two countries:

- It is a facilitation for the small-scale producer that the Agricultural Ministry decree of 57/2010. (V.7.) on food-production, process and sale does not apply to the marketing and processing authorisation of food production-, process- and sale as well as the marketing of wild mushrooms for consumption and the marketing of the wine products.
- According to the Croatian legislation small works dealing with food processing of animal origin and small capacity facilities can operate under lite hygiene rules, which include facilities producing traditional products or applying traditional producing methods.

Related legislation

HU:

Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural and food production as well as selling

HR:

Ministarstvo Poljoprivrede
Pravilnik o Prodaji o mjerama prilagodbe zahtjevima propisa o hrani životinjskog podrijetla, 51/2015(1003)

In addition, the public health regulations of marketplace sale –

e.g. the regulations concerning the place and environment of food products or food raw material sale – should be harmonised and standardised, so it would be more inevitable and easier for the producers to meet these requirements. Requirements should be announced in both languages and the **preparation of inspector authorities should be provided.**

f) Facilitation on VAT management

The value-added tax system within the EU is harmonised. The basic rule is that if a producer wishes to sell his product in another member state, he has to keep the national regulations of that given state on value added tax, since value added tax obligations arise in the place of performance.

Taxable activity requires tax number, that means, that **a foreign producer needs to request a tax number according to the place of sale. He needs to submit a value added tax return on his completed**

sales according to the VAT rules of the given country and he needs to pay the cumulated tax. In addition, he needs to keep the certification rules of the given country: he needs to buy and fill in the invoice and receipt forms using the national language of the given country.

The producer needs to have an up-to-date knowledge on the tax rules of the country of the place of sale.

This means a significant administration surplus and linguistic obstacles makes this administration a lot more difficult.

Facilitating administration would ease the workload of the producers and could help the recovery of the cross-border production sale. As a result, it is proposed:

- To elaborate a joint legislation;
- Provide information in one place on rules, on the availability of forms and on places of administration;
- Providing administration support for a foreign producer in Hungary to meet the administrative obligations (online administrative support application, personal contact points – with tax number request and other administrative possibilities, according to the place of production, on national language);
- Using standardised, bilingual forms, certificates and registers, and providing their availability;
- The benefits should be applied in case of using an intermediary, (e.g. fundamental tax exemption)

Related legislation

HU:

ACT CXXVII of 2007 on value added tax

Act CL. of 2017. on the order in taxation

Act CXVII of 1995. on personal income tax

HR:

Zakon o fiskalizaciji u prometu gotovinom (2822 NN133/2012)

Zakon o izmjenama i dopunama Zakona o fiskalizaciji u prometu gotovinom, 2064 NN 106/2018

Pravilnik o paušalnom oporezivanju samostalnih djelatnosti, NN 1/2017

Zakon o porezu na dodanu vrijednost, 1251 NN73/2013;

2059 NN 106/2018

By using an intermediary, a simpler situation occurs, since if the buyer is foreign and he has community VAT registration number (according to the so-called reversed charge), the seller fills in an invoice which contains 0% vat. In this case special certificates are needed in order to proof the foreign sale (e.g.: transport documents).

The so-called EIG (Economic Interest Group) started from France. With the promotion of EIG great proportion of the above-mentioned problems could be solved. The essence of the EIG model is that the producers do not formulate a new organisation for their cooperation, but a designated member sells the products on behalf of the partners, therefore each partner keeps his own tax-status, for example, the tax-free possibility (so each producer issues his invoice in accordance with the tax rules that applies on the producer).

g) Standardisation of records maintained by producers.

Besides the official tasks of registrations, both the Hungarian and the Croatian producers need to keep records in connection with their sales.

- The Hungarian small-scale producer needs to maintain records on the quantity of products he produces or prepares, on the date of production, on the quantity of the sales, and on the place and date of the sale. The producer needs to keep the original or the copy of the record at the place of sale, he is obliged to show it in case of authority inspection. Other records should be necessary too about plant pest, veterinary medicinal products, diseases occurred or the results of raw milk plate count control for example.
- The OPGs also need to keep records about the sold products. The record, according the form attached to the appendix of the legislation, needs to contain at least the date of the sale as well as the type and quantity of the sold product. The record is needed to be available for the competent authority.

Related legislation:

HU: Government decree of 436/2015. (XII. 28.) on primary agricultural producer's licence
 Government decree of 326/2001. (XII. 30.) on the creation, registration, operation and special subsidies of family farms
 HR: Zakon o obiteljskom poljoprivrednom gospodarstvu, 585 NN 29/2018

Regarding record maintaining obligation of the producers, **the harmonisation of rules and the application of standardised (bilingual) forms is essential** for the sake of controlling by the competent authorities of both countries.

h) Modification of the legislation upon single primary agricultural producer's licence (HU)

The modification of the Hungarian legislation would mean a change regarding the above mentioned in such a way that instead of a single primary agricultural producer's licence (one single licence jointly given to all the family members) each family member should be given an own licence or an authorised copy of the single licence. This would mean a facilitation since personal presence during the sale would not be a requirement. This would result in sharing the tasks and burdens among the family members (or they could sell their products in different markets simultaneously). This would open the possibility for a more intense cross-border sale.

Related legislations:

HU: Government decree of 436/2015. (XII. 28.) on primary agricultural producer's licence

i) Simplified administration

In case of official administration, **a simple and fast management of tasks in the language of the producer through an online platform or local administration points should be provided.** The latter is essential for the older generations, thus these must be close to the target group, so it is advisable to connect it to the local offices of agricultural chambers.

j) Cooperation between competent authorities

The above-mentioned activities cannot spare the **close cooperation of the competent authorities.** **Information exchange** is of essential importance, but training and education of the professionals at the competent authorities on applying the standardised rules is also inevitable.

k) Easing on rules concerning the operation of marketplaces

However, lite rules apply to producers' market, it is important to decrease the overregulation of markets, regarding for example easing rules on preparation of food or organising events.

2. Creation and application of single (joint) legislation on the food sale conditions along the border food sale

Based on the necessities and deficits analysis prepared within the framework of the project, cross-border sales of local products are hindered by several rules and regulations. **In order to open the**

possibility of cross border sales for a wider circle, we need a more direct intervention than the above mentioned, which requires an in-depth change of the legislative environment.

The aim is to boost the trade along the border, which is not a new ambition: as a result of the peace-making processes of the Great War, for the sake of the improvement of people's (who were once an economical and cultural unit prior to the war) living conditions along the border, several agreements were sign between Hungary and the former Czechoslovakia, which included many facilitations (e.g.: customs clearance cooperation for a faster border-crossing).

Separate regulations are needed to be created in intergovernmental cooperation, which contain the integrated, lite rules of cross-border (but within the border area) sales of agrarian products coming from farms along the border. Such positive discrimination of local producers, compared to other producers running farms in other parts of the country, is justified by the disadvantage of the peripheral location of their farms (and in the meantime it handles such discriminations, as the 40 kilometre's geographical impoundment of the Hungarian small-scale producer, which only means a "half-circle" for the producers living along the border.)

Therefore, the aim of the joint legislation is to help and ease the burdens of the cross-border sales of local producers. For this – besides the above-mentioned possibilities of ceasing administrative obstacles – **it is advisable to create an independent law on the special conditions of cross-border food sales and to apply this law uniformly in both sides of the Hungarian-Croatian border.**

This law **would suit the present legislation**, i.e.: that the legislations (specially the guarantees) on primary agricultural producers, small-scale producers and family farms would be still in effect, but the new law **would draft special rules on cross-border sales as an additional legislation to the already existing ones** (thus the paragraphs of the legislations, already in force, have to be applied, including the already existing guarantees).

The following terms should be defined and specified, while modifying the legislation:

- **Target group:** it is recommended to apply the primary agricultural producer/small-scale producer/OPG regulations based on the present definitions of notions. (Concerning the Hungarian legislation, lite rules are applied regarding small-scale producers, however this target group is less relevant from the viewpoint of sales along the borderline, thus it is justifiable to involve all the producers listed in the category of primary agricultural producer.) When defining the target group, the aim is that the category of the Hungarian primary agricultural producer and the Croatian OPG would be mutually correspond to each other.
- **„Cross-borderness“:** It must be defined what cross-border means geographically. The present Hungarian legislation contains a rather strict geographical impoundment concerning small-scale producer's sale: the small-scale producer can sell his agricultural or food-industry product from his farm in the county where his farm is located or in the 40 air kilometre from the centre of his farm, or in a market located within Budapest (except for basic products of non-animal origin, e.g.: the marketing of vegetables, fruits, honey and live fish, which can be sold all over the country's markets or fairs for final consumer – but not for commercial or catering businesses). This significantly narrows down the marketing possibilities of farmers along the border. In case of the geographical impoundment of "cross-borderness" it is recommended to consider the position of the border area and its closest cities (as significant target markets from a solvent demand point of view)¹. Taking the position of the two largest cities, Pécs and Osijek, into account, it is recommended

Related legislations:

HU:
Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural- and food production as well as selling

¹ Based on the necessity analysis, it is a huge problem that the supply and demand is geographically separated: while the agrarian production is rural, the solvent demand is mostly positioned in the urban areas.

to define the border area ~50km far from the border and apply the lite rules on producers, who live and farm in this border-area and who wish to sell their products in this area too.

- **Scope of products:** those scope of products must be defined that are the subject of lite cross-border sale. Based on present legislation it is recommended to focus on the basic products of the primary agricultural producer/OPG or the basic products that are harvested or gathered from the wild, but specially on the food made out of them and the handmade products made by traditional techniques (since the role of these might be more important in the cross-border sale due to their transport, sell-by-date and their uniqueness).

It is recommended to have a joint Hungarian-Croatian meeting on defining and specifying the above-mentioned notions, by involving the competent professionals (agricultural chambers, experts, local producers)

Special, lite rules in the cross-border product sale:

a) Special possibility of sales via agent

The greatest obstacle of cross-border sale is that the producers/family farms can only sell their own products. Personal presence is a must during small-scale sale. Besides, on the Hungarian side it is forbidden to involve an agent in case of small-scale sale (except for the case of retail and catering facilities and communal restaurants). The Croatian legislation is more permissive, since the OPGs can sell their products to distributors and purchasers.

- In Hungary the primary agricultural producer can only sell products that are coming from his primary agricultural activity. Since the condition of sale is the possession of the primary agricultural producer's licence, thus the personal presence of the producer is inevitable during the sale. As a special rule, small-scale producers can sell the products they produced only to the final consumer or to trade and catering facilities (including communal restaurants). Another rule is, in case of the small-scale producer, that selling can only be made by the small-scale producer and people living in in the same household with him/her, his wife (or her husband), his officially registered partner, adult child, sibling, parent or grandparent. The small-scale producers cannot sell their products to retailers (for further resale), selling via agent is not permitted.
- In Croatia, the own agricultural products produced by the OPGs can be sold by the owner, the members and the employees of the OPG. OPGs can sell their products to retailers, purchasers and to final consumers too. In case of retail sales, the owner of the OPG and the members have to keep their IDs and the decree on the registry of their agricultural works as well as other documents and certificates depending on the type of the sold products, and they are obliged to show these documents to officials authorised by the law. Foreign agricultural products must not be sold via the OPGs since the family farms can only sell the product they produced. Exception under this rule is that the neighbouring OPGs products can also be sold but only in the own shops or in the premises of the farm.

Related legislations:

HU:

Government decree of 436/2015. (XII. 28.) on primary agricultural producer's licence
Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural- and food production as well as selling

HR:

Zakon o obiteljskom poljoprivrednom gospodarstvu, 585 NN 29/2018
Ministarstvo Poljoprivrede pravilnik o prodaji vlastitih poljoprivrednih proizvoda proizvedenih na obiteljskom poljoprivrednom gospodarstvu, 1437 NN 76/2014

A special rule is recommended to apply: in case of the cross-border sale, maximum one plus agent can be involved into the supply chain – and this is in harmony with the provisions of Short Supply Chain. Of course, providing the monitoring of the process is inevitable.

When developing the agent system, it is important not to impair the principle which states that the main goal is to supply local people with local healthy food.

By creating bilingual online producer's registers available to anybody, it can be provided that the obligatory certificates do not need to be kept on the location of the sale, thus personal presence would not be necessary anymore – in the meantime buyer's trust can be strengthened.

It is recommended to have intergovernmental reconciliations, involving the competent actors (agricultural chambers, experts, local producers), in order to narrow down and regulate the activities of the agent-circle (e.g.: producer groups, co-ops, other local producers exclusively).

b) Local producers' sales cooperation

A special case of employing agents, if the law permits, when **the primary agricultural producer – in this status (thus not only as sole entrepreneurs) – can resell other local producer's products or can take over and sell each other's products on commission-base**. Thus, local producers would cooperate in order to help each other (within the border of the country, or in cross-border cooperation), which would create more pleasant conditions as a consequence of sharing tasks and costs resulting from farther sale. It can also give a firm base for the creation of special sales channels (e.g.: mobile markets, joint home delivery).

For that the above-mentioned legislation should be modified (creating the possibility for the producers to sell their products jointly or via another producer or agent).

A special form of cooperation among producers is the so called GIE, Groupement d'intérêt économique (Economic Interest Group) which has already a practice in France. The types² of GIE:

- **Direct sale of local farmer's products:** this comes from a direct cooperation of producers, either in the form of co-ops or association. The producers are members in the cooperation, each member is responsible for his own product and the income is fully belong to the producer of the sold product. The producers pay a membership fee. The amount of the fee is defined by the rate of sales. In many cases the producers – planning their own timetable – can sale their products on their own. The shop is in the city, village, or in the outskirts, probably on a farm, which can be accessible easily.
- **Jointly operated sales point(s):** this is a larger cooperation compared to the previous one. Its legal form can be an association (GIE) or limited liability company (SARL), which is jointly operated by the producers. At sales points, the producers sell their own products, or they employ someone, however it is still a direct sale, there is no agent. Products are coming within the region of 80 kms. It is important, that the GIE is not a tax-payer organisation, and it has no income. So, each member pays his own tax after their income, and his guarantees are valid (e.g.: non-taxable persons).
- **Farmer's shop or chain of shops selling products only from the region, but not direct sale (or at least involving one agent):** not a direct sale, however it involves only one agent, thus according to the French legislation this is a type of short supply chain. Its legal form is undertaking, the producers are suppliers and not sellers, but their names, address and photos can be displayed in the shop or among the products. The products are labelled with local, regional or traditional labels, the buyer can find local flavours of the region.

A similar cooperation among the Hungarian-Croatian producers can be a favourable possibility by creating the necessary legal background competing it with a possible financial support.

² https://www.kisleptek.hu/gie_termeloi_erdekegyesules/

c) Online sales, mobile markets

At the moment the number of the local or producer's markets are quite few, especially in the border area. It is risky to establish a new market due to the narrowness of the solvent demand thus **special forms of sales in the border area can have a rather important role**. Present legislation offers a limited possibility on the Hungarian side of the border, while the Croatian OPGs have different channels available:

- According to the Hungarian legislation trade can be done in shops, mobile shops, in shopping centres, fairs and in markets, in communal areas, through direct sales, out of shops, via parcel delivery or via parcel terminals or sales on public transport vehicles. However, the forms of small-scale trade are considerably narrower: small-scale producer can sell his products on the premises of his farm (place of living), markets, fairs, events and permitted temporary places of sale, in his own farm within the framework of a village guest-table or for the request of the buyer via parcel delivery. At the same time there is a geographical restriction concerning the products of the small-scale producers. The possibility of online sale for example (due to the regulation on personal presence) is not allowed for them. Another regulation does not allow out-of-shop (doorstep) sales of food (including mushroom), except for vegetables and fruits; livestock and excise goods.
- On the Croatian side, the OPGs can sell their products on small-scale producers' markets, shopping malls, stands in institutions, pavilions, via mobile sale, distance selling (e.g.: online sales), direct sale via agency, temporary sales (e.g.: markets, fairs, exhibitions), on the premises of the family farm, and agricultural shops.

Related legislations:

HU:

Act CLXIV of 2005 on trade
Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural- and food production as well as selling

Government Decree of 210/2009. (IX. 29.) on the conditions of trade

HR:

Zakon o trgovini, 2790
NN87/2008

Ministarstvo Poljoprivrede
pravilnik o prodaji vlastitih
poljoprivrednih proizvoda
proizvedenih na obiteljskom
poljoprivrednom gospodarstvu,
1437 NN 76/2014

By the extension of the sales forms allowed by the Hungarian legislation and by the standardisation of the rules, special sales forms and channels, especially online sales and mobile-shops, can be represented with more emphasis on local products sales. Therefore, it is recommended:

- **to create the possibilities of online sales by the modification of legislation concerning the Hungarian producers;**
- **to modify geographical restrictions, creating special regulations for the border-area (based on defining the notions) in case of the Hungarian small-scale sales;**
- **to create the legislative background of joint mobile-sales.**

These measures can promote the introduction of local products, they can urge buyers to try them and they create the possibility for long-term relationship between the actors (for example shopping communities can be created along the borderline). A firm customer-base can be created which is necessary for a market investment later.

d) Joint processing opportunity

Both the Hungarian and the Croatian legislation provide the opportunity for local producers – besides certain restrictions – to purchase basic products from other producers and to supplement their own basic products.

- The Hungarian legislation provides the opportunity for small-scale producers to offer certain services to private individuals and to other small-scale producers (e.g.: smoke-house services, crop clearing, vegetable-, fruit-, nut drying, grinding and pressing – except for meatworks and meat processing). It also provides small-scale producers to have other food-processing companies do subtasks for them while producing food-products.
- In Croatia, the supplementary activities, made by family farms, can be the preparation of agricultural and food industry products. These products might contain maximum 49% raw materials which are not coming from the own production activity (except for milk and meat).

Related legislations:

HU:

Agricultural Ministry decree of 52/2010. (IV. 30.) on the conditions of small-scale producers of agricultural- and food production as well as selling

HR:

Ministarstvo Poljoprivrede
Pravilnik o Prodaji o dopunskim
djelatnostima na obiteljskim
poljoprivrednim

Since the business potential of processed products are higher along the border-region (due to the larger demand, easier transport and longer sell-by date as a result of the speciality and uniqueness of these products), the proportion of processed products should be increased. Due to the more significant investment and cost needs, joint implementation of processing is advisable.

Beside the standard legislation it is inevitable to create the possibility of joint processing (probably with a cross-border nature) for a wide circle of local producers. Keeping track of the process is an important requirement to provide.

e) Modification of public procurement practice

Modification of regulations is necessary in order to **have cross-border small-scale producers appear as subcontractors in communal feeding public procurements** (by harmonising the rules on local producers). Besides, it needs joint commitment among the local producers (e.g.: by the establishing of different sales co-ops or Food Hubs) in order to be able to provide the necessary amount expected by the communal feeder. **This needs slight modification of rules so as the co-op or the Food Hub can give a valid bid, can be contracted and be able to sell.**

For a better channelling of local products prioritizing short food supply chain (SFSC) forms would be needed in the public procurement practice. For example, stressing the selling aspect of an environmental or social achievement, a certain composition value, a product coming from ecological farming or brand organisation connected to ecological farming, within criterium system of the most favourable bid.

3. Financial aid for cross-border selling

The legal and administrative facilitations mentioned above may encourage cross-border sale of local products. At the same time these measures do not affect financial aspects, that is – despite the facilitations – financial burdens and the differences in tax rules do not change, so these probably do not make cross-border sale more attractive for a wide range of local producers.

In case of strong engagement of policy makers, financial aid can be provided for local producers' cross-border sale. Positive discrimination is justified by the generally unfavourable position of the cross-border area in the periphery. Aid can be a direct or indirect subsidy or a facilitation regarding burden-sharing.

a) Direct subsidies

The aim of the direct subsidies is to financially support local producers concerning cross-border sale, for example,

- Publication of application calls for local producers for investments or soft activities connected to cross-border sale (for example: costs of transport or logistics, market-dues, marketing).
- Elaborating a compensation system for the refund or support of additional costs connected to cross-border sale.
- Publication of application calls/providing subsidies for establishing cooperation among local producers (producing, processing, marketing cooperation, social enterprises.)
- In case of both the Hungarian and the Croatian markets, general rule of operation is, that an annual contract is entered for certain retail outlets (based on previously published calls), while other stands and booths can be rented for a daily-fee. It is anticipated that case-by-case sale is going to dominate cross-border sale. Markets (if the increase of the number of cross-border producers is the goal) can encourage cross-border producers by favourable daily-fees, so that they can compensate the higher costs of foreign sale.

b) Tax allowances

Both the Hungarian and the Croatian legislation give allowances to small-scale producers, these actors have more favourable tax liabilities than the average.

- In Hungary, if a primary agricultural producer or a small-scale producer's income coming from this activity does not exceed 600.000 HUF annually, this income does not have to be taken into consideration, so no tax liability occurs. Between the income of 600,000 and 4 million HUF – if the producer has 20% bill of cost – negative income tax return can be submitted, so no personal income tax liability occurs. The agricultural small-scale producer, who applies item-by-item declaration of expenditure, can account costs not more than 40% of his income, called a small-scale producer's cost flat-rate, above his certified costs, so the tax-base decreases significantly. Not more than 100,000 HUF tax-allowance can also be requested by primary agricultural producers.
- In Croatia those OPGs whose annual income, coming from agricultural activity, does not exceed the amount of 80,500 HRK, enjoy non-taxable person status. These family farmers only need to keep a simple register of their income. The amount of the income tax (concerning only the income after deducing costs) is 24% below 30,000 monthly or 360,000 annual income and 40% above this amount. A taxpayer is not taxable if he is selling his own agricultural products, produced in his own agricultural facility, directly to the end consumer in his producing facility in small-scale markets or in outdoor stands.

Related legislations:

HU: Act CXVII of 1995 on personal income tax

HR:

Zakon o fiskalizaciji u prometu gotovinom (2822 NN133/2012)

Pravilnik o paušalnom oporezivanju samostalnih djelatnosti, NN 1/2017

Zakon o izmjenama i dopunama Zakona o fiskalizaciji u prometu gotovinom NN 106/2018

Allowances offered by national legislations can only be applied to taxpayers who established themselves with an economic goal or who have accommodation or place of stay in the given country, so a foreign producer cannot choose VAT exempt status (by subjective right).

Therefore, it is proposed:

- **Intergovernmental cooperation concerning the application of standardised tax allowance categories regarding producers;**
- **Intergovernmental cooperation concerning the application of standardised VAT rates regarding the sales of local products.**

c) Indirect subsidies

The aim of the indirect subsidies is to create the background condition (as well as financial support) for cross-border sales of local products. e.g.:

- Establishing and operating local or regional processing plants, warehouses and other facilities,
- Establishing and operating local products shops near the border,
- Establishing and operating local marketplaces,
- Establishing and operating local knowledge centres,
- Supporting the establishment of local producers and sales groups, co-ops and food hubs.

4. Related measures

Besides the measures above there are several intervention possibilities which can generally help, or as an amendment of the measures above, the promotion of cross-border sale of local agrarian products. These are interventions promoting general demand stimulus, approach shaping, knowledge and experience exchange.

- **Approach shaping of consumers:** demand stimulus effect via marketing actions promoting the demand for healthy and fresh local food, and via strengthening consumer approach awareness through changing consumer habits.
- **approach shaping and cooperation promotion of producers:** promoting cross-border sales, and cooperation among producers (e.g.: GIE model, food HUB), for example by building relations, by knowledge and experience transfer, by sales cooperation and joint marketing activities.
- **Information giving:** it is extremely important to have a standardised information surface which contains all the information relevant to cross-border change including rules, forms (both in Hungarian and Croatian).
- **Creating regional brand:** creating a joint brand for the promotion of quality local products of the border-region
- **Strengthening the role of local products in tourism:** promoting accommodations and catering facilities to include local foods and beverages into their offer. It can be financial incentives or to create relations between tourism businesses and local producers, or to provide information for the creation of cooperation (e.g.: organising local production shows, preparing information publications).
- **Joint brand building and marketing:** producers' cooperation can be directed at joint brand building or joint promotion activities (in a third market for example). Marketing activity can be directed at introducing consumers with cross-border products, organising joint fairs, markets and events, or to consumer approach shaping (strengthening consumer awareness), to regional brand building (for example by the creation of joint cross-border regional brands).

By the joint application of the above mentioned four measures, cross-border local product sales can be supported in a complex way.