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## INTEGRATION OF THE CRISIS RULES CREATED BY COVID 19 INTO THE EUROPEAN COMMON AGRICULTURAL POLICY AND HUNGARIAN AGRICULTURAL LEGISLATION

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### ABSTRACT | 摘要 | RESUMEN

After the end of the COVID 19 outbreak, the authors summarise the measures taken by the European Union to ensure the continuity of food supply and the functioning of the food chain during the outbreak. In addition to the EU measures, the specific measures followed by the Member States and their room for manoeuvre are presented using the Hungarian example. In this article we have also tried to elaborate the implications for the European Agricultural Policy and consequently for European Agriculture. The literature we have elaborated also covers the agricultural market processes and the implications for rural areas. However, this article focuses on the Hungarian public law implications of the legislation and the Hungarian judgement practical issues of its application. Our article also discusses the link between the extreme drought year 2022 and the pandemic. We will look at why the extraordinary legal instruments used under COVID '19 were appropriate to deal with the consequences of extreme weather.

### Keywords:

pandemic impact,  
Common Agricultural  
Policy,  
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## 1. INTRODUCTION

At the end of the second, more or less calm decade of the XXI.th century, the food crisis arrived for reasons that no one could have expected. The protection against the international human epidemic of COVID-19 led to the paralysis of international and local trade for a short time, while in the middle of March 2020 there was no specialist in Europe who could give a clear answer to what effect the spread of the epidemic will have on the market of agricultural products. For several weeks, it was impossible to predict whether there would be a producer who would be able to produce the basic foodstuffs; whether the countries ensure the passage of products across the border; finally, if these two conditions are met, will people be able to buy basic food at all due to the hundreds of thousands of job losses [3].

However, while there was uncertainty around the world in finding the right method of protection against the epidemic until the development of the vaccine - due to lack of medical experience – it was recognized everywhere that the continuous supply of food to the population is above all else. Just as the closures and measures to limit people's social relations were introduced by law, the legislation carried out due to the emergency caused by the epidemic could provide the public law, epidemiological and other frameworks for protection. The right to agricultural subsidies could not be left out of the crisis legislation either [8].

The unprecedented global problem has highlighted the life force exposure of the agriculture, fisheries, aquaculture and food sectors. It has become clear that every effort must be made to prevent the gradual shutdown of the world's industrial and service sectors starting in February 2020 from causing a food security crisis. In its announcement, the Commission explained in item-by-item provisions in which cases it considers subsidies to be granted on the basis of point c) of Article 107(3) of the TFEU to be compatible with the internal market. According to the announcement, in the case of agricultural production, state support became compatible with the internal market, if its amount did not exceed 800,000 euros per company and it was provided in the form of direct support, repayable advances, tax benefits, or payment facilitation. The announcement also defined the rules for loan guarantees, preferential loan interest rates, subsidies provided in the form of loans and guarantees through credit institutions, as well as short-term export credit insurances compatible with the internal market. To this end, the EU has taken extraordinary measures to support the sectors that play a role in food. Thanks to the measures, in the period after the outbreak of the coronavirus epidemic, the EU agri-food industry supplied the European population with adequate quality and safe food, despite the buying fever experienced in the few days before the closures [9].

In order to maintain food security, the Commission partly provided guidelines for the safe operation of the food supply chain, and partly decided to introduce measures to directly support farmers and rural areas, which included direct subsidies, extraordinary market subsidies and measures to simplify the CAP [19].

In the framework of the plan, the Commission ensured that the Member States ensure the functioning of the single market for goods by creating green lanes. The green lane system established at the designated border crossings enabled a quick border control - taking no more than 15 minutes. The Commission has published a practical guide to ensure that employees who commute within the EU and perform a key task in the fight against the pandemic caused by the coronavirus can get to their workplace without hindrance. The new temporary measures also made it possible for the EU countries to use the remaining sums of the rural development funds to support agricultural producers and small businesses in the agri-food industry in 2020. In order to increase the cash flow of agricultural producers, the Commission increased the advance payments of subsidies provided under the CAP from 50% to 70% in the case of income subsidies, and from 75% to 85% in the case of rural development payments. Based on the newly adopted temporary framework for state subsidies, agricultural producers could receive subsidies of up to 100,000 euros per farm, and food processing and distribution companies up to 800,000 euros, with this amount also being supplemented by the *de minimis* subsidy [7].

As part of the special market measures, the Commission provided private storage support for dairy products (skimmed milk powder, butter, cheese) and meat products (beef, sheep and goat meat) to facilitate the temporary reduction of supply. This measure allowed some of the mentioned products to be temporarily withdrawn from the market for a minimum of 2-3 months and a maximum of 5-6 months. The Commission also allowed the producers of the milk, flower and potato sectors to deviate from certain rules of EU competition law, within this framework it was possible to jointly plan milk production in the milk sector, and to withdraw products from the market in the flower and potato sectors. As part of the special market measures, the Commission made the implementation of the market support programs for wine, fruit, vegetables, table olives, olive oil, and beekeeping products, as well as the EU school program (school fruit, school vegetable and school milk program), flexible [12].

In order to increase the resilience of agriculture, the deadline for submitting applications for CAP payments was extended, and in order to reduce the number of personal contacts in the process of tracking payments, personal inspections were omitted. Within the framework of the crisis plan, on May 27, 2020, in response to the economic trauma caused by the coronavirus, the Commission proposed the EUR 750

billion Next Generation EU temporary recovery instrument and the targeted strengthening of the long-term EU budget for the period 2021-2027. The EU heads of state and government reached a political agreement on the package on July 21, 2020, and the Parliament and the Council finalized it on November 10, 2020<sup>1</sup>.

## 2. THE IMPACT OF COVID 19 ON HUNGARIAN AGRICULTURE

The human pandemic, which started in China at the end of 2019 and arrived in Europe a few months later, has had a shocking impact on many areas of agriculture and the food supply system in Hungary. The first immediate impact was the disruption of local and global supply systems. The initial panic triggered a buying fever that led to temporary shortages of certain foodstuffs (frozen meat, preserved food). During the closures, limited access to food increased the demand for ingredients for home-made ready meals, causing rise of prices and shortage of goods (flour, yeast, sugar). At the outbreak of the epidemic, it was not possible to make a reliable forecast of the extent to which labour shortages caused by the mass outbreaks or the prohibition on leaving the residence would affect the agricultural sector as a whole, especially the labour-intensive sectors (horticulture, viticulture) [15].

As time progressed, the likelihood of the epidemic spreading in open spaces became less likely in our country, and consequently, contrary to early estimates, the impact of the decreasing manpower was small on the agricultural economy [2].

By the middle of March 2022, the biggest problem was the disruption of supply chains. Consumer confidence in the safety of food was also a problem. In the first months of the outbreak, conflicting opinions were published on what treatment or cleaning should be used for food on market to avoid the risk of infection. Given priority to food supply safety, the situation has now been resolved in the medium term, the extent of the recession in retail chain sales was smaller than in other sectors of the economy. Although the economic performance of the catering sector, at the end of the food chain, has declined compared to previous years, the constraints have also created new forms of food supply (Pálfay, 2023).

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<sup>1</sup> European Commission 2020. Short-term outlook for EU agricultural markets in 2020, Retrieved from [https://agriculture.ec.europa.eu/news/short-termoutlook-despite-challenges-arising-coronavirus-outbreak-eu-agri-food-sectors-show-2020-04-20\\_en#moreinfo](https://agriculture.ec.europa.eu/news/short-termoutlook-despite-challenges-arising-coronavirus-outbreak-eu-agri-food-sectors-show-2020-04-20_en#moreinfo) (last visited: 02.03.2024); Eurostat 2022. Database, <https://ec.europa.eu/eurostat/en/web/main/data/database> (last visited: 02.03.2024).

Unfortunately, all sectors of agriculture suffered heavy losses due to the epidemic, but despite this, food supply in Hungary remained uninterrupted and secure.

This was possible because, in addition to the measures taken by the government, the labour demand in agriculture during the early spring and late autumn period, which was the most affected by the pandemic, was relatively low and the harvest period was not affected by the epidemic restrictions. The horticultural sector, which requires a continuous labour force, is composed of small farms so continuous work was possible by using family workforce. It can therefore be said that, compared to the other sectors, the agricultural decline during the pandemic was small.

### **3. THE MOST IMPORTANT MEASURES OF HUNGARIAN LEGISLATION DURING COVID 19**

The most important measures taken by the Hungarian Government and the Ministry of Agriculture are financial ones. As part of the Action Plan for Economic Protection, the Ministry developed the National Food Crisis Management Programme, under which the Government provided HUF 25 billion (about EUR 70.5 million) to agricultural producers, producer organisations and food enterprises to manage the economic impact of the pandemic.<sup>2</sup> Transitional support may take the form of a grant, an interest rate subsidy or a guarantee premium subsidy. Applicants must be enterprises active in primary agricultural production, food processing, forestry, hunting or fishing<sup>3</sup>.

Under the so-called "Agricultural Széchenyi Card" scheme, agricultural enterprises can apply for an overdraft facility (overdraft facility) of up to HUF 200 million per enterprise for a one, two or three-year term, provided that the eligibility criteria are met. The Government provides full interest subsidies, full guarantee fee support and full administrative cost support for the whole period of the loans, but other costs related to the loans may also be fully covered by the Government in certain cases<sup>4</sup>.

Under the Action Plan for Economic Protection, a number of measures have been taken in relation to taxation: the reduction of the burden on employers and workers is extended to part of the ornamental

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<sup>2</sup> Government Decree No. 1196/2020 (IV.30.)

<sup>3</sup> AM Decree No. 20/2020 (VI.19.) on the general conditions for granting temporary support to agricultural enterprises and food processing undertakings in difficult economic circumstances due to the coronavirus epidemic Section 2 (1) (3)

<sup>4</sup> AM Decree No. 14/2020 (IV.10.) on the granting of full small amount support to the Agricultural Széchenyi Card Construction within the framework of the Action Plan for Economic Protection.

horticulture sector, wine producers, pálinka producers, small farms and breweries until 30 June; a 2 percentage point reduction in social contribution tax; postponement of the deadline for annual accounts and tax declarations until 30 September; speeding up the VAT refund process (from 75 to 30 days for normal taxpayers and from 30 to 20 days for "reliable taxpayers").

In addition, the agricultural sector has been exempted from the obligation to pay water resources tax during the emergency caused by the epidemic<sup>5</sup>.

The Ministry of Agriculture has succeeded in ensuring that agricultural work could be unhindered during the curfew period and that foreign seasonal agricultural workers could enter the country. The police chief has decided to allow citizens of neighbouring countries and Hungarian citizens of Hungarian nationality to enter Hungary in order to meet the labour needs of the agricultural sector<sup>6</sup>.

To ensure the smooth running of production and to take into account the specific labour needs of the agricultural sector, the rules on simplified employment in the agricultural sector have been made more flexible. In 2020, the annual limit for casual and seasonal work could be 180 days instead of 120 days<sup>7</sup>.

According to the Hungarian agriculture minister, the most important objective after the crisis should be further development. In light of this, the Ministry of Agriculture has announced a new agricultural investment package worth HUF 80 billion (around EUR 225 million) for the livestock and horticulture sectors. In addition, the ministry has launched a new website called the Producer Basket to provide an online trading platform to help farmers find buyers in the more difficult situation of social distance [18].

Under the programme, priority support was given to the most vulnerable sectors of agriculture. The aim of the support was to maintain production and agricultural exports in the face of the general recession and to safeguard the acquired positions of the sector [4].

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<sup>5</sup> Government Decree No 123/2020 (IV. 16.) on the fulfilment of the obligation to pay water resource charges during an emergency.

<sup>6</sup> Order of the National Police Chief of 20 May 2020

<sup>7</sup> Act LVIII of 2020 on transitional rules and epidemic preparedness related to the end of an emergency, Section 169.

The following table summarises the specificities of the aid for the most exposed agricultural areas:

**Table 1. Hungarian Agricultural Sectors and special degrees**

Sector	Objective	Measure	Legal standard
Poultry	welfare costs	Fattening animal aid	AM Decree No. 29/2020 (VI.22.) on the detailed conditions for the use of transitional aid for poultry and pig farmers from the National Food Crisis Management Programme, drawn up as part of Action Plan for Economic Protection.
beekeeping	ecosystem service	compensation for the compensation of transhumance is made more difficult HUF 1 000 aid per hive	
fish farming	conservation of fish stocks	subsidy for loss of turnover justified by a fall in demand	AM Decree No. 30/2020 (VI. 22.) on the detailed conditions for receiving transitional aid from the National Food Crisis Management Programme, drawn up as part of the Action Plan for Economic Protection, for enterprises engaged in fish farming.
winery	preserving the capacity of wine tourism	compensation for loss of sales of locally marketed processed wine	AM Decree No. 38/2020 (VII.30.) on the detailed conditions for granting transitional aid to wine producers in the HORECA sector and in the wine tourism sector under the National Food Crisis Management Programme drawn up as part of the Action Plan for Economic Protection.
fruit and vegetables	strengthening the social dimension, donations	cooperatives distribute 5% of the processed product free of charge - compensation for this	AM Decree No. 26/2020 (VI.22.) on the detailed rules for the use of transitional support from the National Food Economy Crisis Management Programme for certain horticultural enterprises, developed as part of the Action Plan for Economic Protection.
producers	maintaining sectoral capacities	maintenance of production capacity for milk, beef cattle and ornamental plants - compensation for proven loss of income	AM Decree No. 20/2020 (VI.19.) on the general conditions for granting temporary support to agricultural enterprises and food processing undertakings in difficulty as a result of the coronavirus epidemic. AM Decree No 25/2020 (VI.22.) on the detailed rules for the use of the transitional aid to be granted to food processing undertakings from the National Food Crisis Management Programme, which is part of Action Plan fro Economic Protection.
food industry	donate	loss of sales due to reduced demand - the food that cannot be sold is handed over as a donation after a control by the NÉBIH - and the loss of income is received as a subsidy	

#### 4. PUBLIC LAW SPECIALITIES OF STATE OF DANGER IN HUNGARY

In March 2020, as the epidemic spread, a state of danger and a special legal regime became necessary.<sup>8</sup> The state of danger is a type of special legal order alongside a state of war and a state of emergency. In a state of danger, the Government has wide powers to suspend the application of certain laws, to derogate from already promulgated laws or to take other measures to resolve the situation by means of a decree.<sup>9</sup> The Government first declared a state of danger on 11 March 2020, covering the whole country, due to the outbreak of the coronavirus. Within two years, however, the legal instrument had to be invoked again, firstly because of the armed conflict in the neighbouring country in February 2022 and then because of the exceptional drought affecting two thirds of the country from the beginning of 2022, that had a serious impact on agriculture.

#### 5. INTERPRETING AND APPLYING THE LAW TO MITIGATE THE EFFECTS OF THE CRISIS

In order to ensure that the Hungarian measures comply with EU legal sources, it was necessary to ensure that the advantages granted to enterprises for providing food security do not conflict with EU rules on prohibited state aid. It comes from the EU's four freedoms that the free movement of goods, capital, services and persons within the EU must be ensured [1].

The functioning of the agricultural sector is affected by all four freedoms, so business organisations in the Member States must be able to compete on equal terms on the markets of other Member States. State aid rules in the agricultural sector prevent economic policies protecting against the effects of external economic forces from distorting competition and hampering the application of the freedoms.<sup>10</sup> It states that aid granted [13] to remedy a serious disturbance in the economy of a Member State is compatible with the internal market.<sup>11</sup>

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<sup>8</sup> Hungarian Fundamental Law: Article 48.

<sup>9</sup> Hungarian Fundamental Law: Article 53 (2)

<sup>10</sup> The Commission has interpreted the concept of state aid in a Notice 2016/C 262/01 Section 107 to promote its more transparent and consistent application across the EU. Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01)

<sup>11</sup> TFEU Article 107 (3b)- Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU).



The Commission has made clear that national aid measures should be used to help companies facing liquidity or supply problems to recover from the economic situation they are in. The Commission also considered it necessary to ensure that EU state aid control does not fragment the internal market or does not violate the equal conditions of competition [16]. As regards state efforts tackling the effects of the epidemic on the economy, the Commission outlined the options available to Member States under EU law to ensure the liquidity of enterprises.<sup>12</sup>

## 6. MEASURES TO MITIGATE THE IMPACT OF COVID 19 ON THE AGRICULTURAL ECONOMY

It required swift action not only from the EU but also from national legislation to maintain production security. Crisis codification, in the context of the emergency legal order, has not only provided rules to keep the economy functioning and reduce the burden on citizens, but has also responded to unprecedented circumstances in the agricultural economy. A general decision<sup>13</sup> has been taken to stabilise the situation of certain priority social groups and enterprises in financial difficulty, but also to help agricultural enterprises and food processing businesses that have been placed in a difficult economic situation by the epidemic.<sup>14</sup>

The Government has decided to relieve the rules on the duration and the use of casual and seasonal work in the plant production, forestry, animal husbandry, fisheries and hunting sectors until the end of the first year of the epidemic. The provisions on on-the-spot checks laid down in the Support Act have been changed, and the authorities have had to endeavour to reduce the number of checks involving personal contact in the months of social distancing, where checks can be carried out by remote sensing. The Government amended the Forestry Act<sup>15</sup> by extending the obligation for forest holders make up for the reduction in profit in connection with reforestation and by providing for the possibility of electronic submission instead of paper documents in the procedures covered by the Support Act in order to reduce the number of personal contacts [6].

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<sup>12</sup> Communication from the Commission 2020/C 91 I/01, 1.3.11.

<sup>13</sup> Act CVII of 2020 is mean: Act CVII of 2020 on transitional measures to stabilise the situation of certain priority social groups and enterprises in financial difficulty.

<sup>14</sup> Governmental Decree No 20/2020 (VI.19.) is mean= Decree No 20/2020 (VI.19.) on the general conditions for granting temporary aid to agricultural holdings and food processing undertakings in difficulty as a result of the coronavirus epidemic.

<sup>15</sup> Act XVII of 2007 on certain procedural issues related to agricultural, rural development, fisheries aid and other measures.

Although security of supply was a key priority in dealing with the crisis, Hungary did not need to introduce measures that would have allowed farmers to derogate from agri-environmental management requirements. The use of digital and remote sensing methods, as opposed to face-to-face checks, was the primary method used in the examination of the requirements for agricultural support and provided a satisfactory level of assurance of compliance<sup>16</sup> with the relevant standards of JFGK<sup>16</sup> and HMKÁ<sup>17</sup> during the pandemic period. COVID 19, the Russian-Ukrainian war and the drought, even without the relevant European standards, forced the country to introduce measures through the Common Agricultural Policy (CAP) to increase the resilience of the agricultural sector to climate-related shocks. However, given that the CAP strategic plan was already being drawn up at a time of global problems, there was no need to revise it [5].

## 7. THE IMPACT OF NATURAL EVENTS ON AGRICULTURE AFTER THE PANDEMIC

In 2022, in addition to the war conflict in Europe, Hungary had to deal with a drought of historic proportions, which affected the central and south-eastern parts of the country. In the south-eastern part of the country, only half of the normal precipitation fell in spring and winter. As a consequence of the months of low precipitation, the top 80-100 cm of the soil in most parts of the country have been completely drained of water. The absence of spring floods on the Danube, the Tisza and the Drava, the atmospheric drought, the average winter and summer temperatures and the reduction in precipitation led to severe or high degree of drought in most of Hungary by the middle of the year. Following a loss of a quarter of the wheat harvest, maize crops in the lowlands and central Hungary were almost completely destroyed. In the lowland areas, grassland was drained and farmers could neither graze nor mow. The area of arable land affected by the drought reached one million hectares. The drought in Hungary caused crop losses of more than HUF 1,000 billion: 5 million tonnes of maize and 2 million tonnes of wheat were lost (Barna, 2022).

To deal with the situation, the Government declared a state of danger and decided<sup>18</sup> to provide increased interest rate subsidies for the cost of overdraft facilities for farmers affected by the drought. To alleviate the financing problems caused by the drought damage, the Government introduced a moratorium on loan repayments, under which credit and loan contracts granted to farmers could not be terminated by the lender until 31 December 2023 even if the farmer defaulted on his payment obligations. In order to

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<sup>16</sup> JFGK= Statutory Management Requirement (SMR)

<sup>17</sup> HMKÁ=good agricultural and environmental condition (GAEC)

<sup>18</sup> Act XXXVII of 2009 on Forests, Forest Protection and Forest Management.

meet the increased water demand of farmers, the Government increased the costs of water management boards for agricultural water supply activities. Finally, the Government also decided to subsidise the increased costs of transporting feed caused by the drought crisis [14].

## 8. IMPACT OF COVID 19 ON AGRICULTURAL CASE LAW

A few days after the special legal order was promulgated, the functioning of the courts in most Member States was regulated in different ways, including administrative proceedings. The Government ordered an extraordinary recess of judgments from 15 March 2020.<sup>19</sup> During the period of the extraordinary jurisdictional recess the courts did not hold any hearings. With the end of the extraordinary recess, it was not possible to hold a trial requiring personal presence during the state of danger,<sup>20</sup> but there was a wider possibility to use written pleadings and electronic hearings. Following the expiry of jurisdictional recess, the Hungarian legislator tried to ensure that proceedings could be conducted without personal presence, not only by increasing the weight of the written form, but also by providing greater scope for the use of electronic means. In parallel with the out-of-court procedures, Hungarian courts have introduced compulsory home office and have defined the tasks that can be performed in the court buildings (Evangelos et al., 2022).

Fortunately, the Hungarian courts were prepared for the epidemic, as the procedural laws adopted in recent years have recognised and regulated the possibility of electronic communication. Accordingly, the technical background was also in place, with all Hungarian judges having a digital device capable of teleworking and accessing the court network [10].

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<sup>19</sup>Action Plan for Economic Protection.

<sup>20</sup> Government Decree No. 74/2020 (III.31.) Section 21 (2)-(4) is mean: Government Decree No. 74/2020 (III.31.) on certain procedural measures during an emergency, Section 21 (2)-(4).

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## ABOUT THIS ARTICLE

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## CUESTIONES EN TÉRMINOS DE EMPLEO Y SEGURIDAD SOCIAL ANTE EL ESPEJO DE LA INDUSTRIA 4.0

### RESUMEN

Tras el fin del brote de COVID 19, los autores resumen las medidas adoptadas por la Unión Europea para garantizar la continuidad del suministro de alimentos y el funcionamiento de la cadena alimentaria durante el brote. Además de las medidas de la UE, se presentan las medidas específicas seguidas por los Estados miembros y su margen de maniobra utilizando el ejemplo húngaro. En este artículo también hemos intentado elaborar las implicaciones para la Política Agrícola Europea y, en consecuencia, para la Agricultura Europea. La literatura que hemos elaborado también cubre los procesos del mercado agrícola y las implicaciones para las áreas rurales. Sin embargo, este artículo se centra en las implicaciones de la legislación en el derecho público húngaro y en las cuestiones prácticas de su aplicación de la sentencia húngara. Nuestro artículo también analiza el vínculo entre la sequía extrema del año 2022 y la pandemia. Analizaremos por qué los extraordinarios instrumentos legales utilizados bajo el COVID '19 fueron apropiados para hacer frente a las consecuencias del clima extremo.

Palabras clave: impacto de la pandemia, Política Agrícola Común, derecho agrícola húngaro, derecho público, procedimientos judiciales

### COVID-19产生的危机规则融入欧洲共同农业政策和匈牙利农业立法

#### 摘要

COVID-19疫情结束后，作者总结了欧盟为确保疫情期间食品供应的连续性和食品链的正常运作而采取的措施。除了欧盟的措施外，本文以匈牙利为例，介绍了成员国遵循的具体措施及其回旋余地。在本文中，我们也试图阐述其对欧洲农业政策以及欧洲农业的影响。我们所选择的文献还涵盖了农业市场过程及其对农村地区的影响。然而，本文的重点是立法对匈牙利公法的影响以及其应用中的匈牙利判决实际问题。我们的文章还讨论了极端干旱年份2022年和疫情之间的联系。我们接下来将探讨为何在COVID-19下使用特殊法律工具适合应对极端天气的影响。

关键词：疫情对共同农业政策的影响，匈牙利农业法中的特别措施，疫情对公法的影响，疫情与法院诉讼程序