Strengthening of the farmers’ position in the food supply chain

The food supply chain connects three important sectors of the economy: agriculture, food industry and trade. Its main task is to appropriately cover the nutritional needs of the population and to ensure the abundance of high-quality and safe food, not only in terms of quantity, but also in terms of the required structure. The food supply chain is of strategic importance for the EU, whereas it employs more than 47 million people and accounts for about 7% of the GDP of the European Union. Its stable operation and long-term sustainability are the prerequisites for ensuring food safety and self-sufficiency in the EU, and represent some of the key challenges for the whole of the EU and the individual Member States.

In recent years, the globalising processes in the world and European markets have resulted in significant structural changes in the food supply chain in terms of the high level of concentration and the cross-border integration of entities operating in the field of food processing, but mostly in the field of retail trade. These changes have brought new phenomena, which the agriculture and partly also the food industry have to currently face and address as new challenges.

Primary agricultural producers have gradually become a link of the food supply chain with the lowest bargaining power. Agricultural production is characterized by a high degree of uncertainty associated with the uncontrollable external factors (in particular, weather), as well as by significant time constraints of changes in the production depending on biological processes. At the same time, the importance of agriculture for the society considerably exceeds its role as a supplier of primary raw materials for food production - agriculture fundamentally influences and shapes the overall landscape and has an essential role in maintaining employment in rural areas. The food supply chain is only as strong as its weakest link, and a threat to agricultural production means a threat to the functioning of the entire chain, and not only to its ability of meeting the needs of consumers, but also other tasks in the economic, social and environmental areas.

Incomparably greater degree of globalisation and integration in other levels of the food supply chain exposes farmers to considerable risks of market instability and price volatility. The weaker bargaining position of farmers is reflected in particular in the area of pricing and in the distribution of profit margins in the food supply chain, when farmers in many cases are not able to carry out their production, even under the conditions that would cover their eligible production costs. As a result of the expansion of own private labels in retail trade, the existing customers also become direct competitors of their suppliers - farmers, as well as small and medium sized processors - thus suppressing the specificity of their products, especially those that are regional in nature.

In spite of the instruments in the framework of the Common Agricultural Policy, no essential positive changes have taken place in order to strengthen the position and bargaining power of farmers towards the entities located further in the food supply chain, in particular in the form of supporting the establishment and development of producer organisations.

A prerequisite for the sustainability of the food supply chain and food safety should be a free and fair competition, balanced relationships between all entities concerned and the freedom of contract, the
actual existence of which, however, is questionable, if the parties are in a significantly unbalanced position towards each other. Different bargaining power in business relations is a natural phenomenon, where the abuse of a stronger position is most often manifested by the application of unfair trading practices, which have become a serious problem in recent years, and for which no efficient and functioning solution has been found yet.

Unfair trading practices constitute practices, which significantly deviate from fair trade behaviour, which are in contradiction with good nature and honesty and which are unilaterally applied by one business partner towards another. These practices represent activities, which are currently not actionable in the framework of the existing EU legislation, even despite the fact that the negative impact of unfair trading practices is not limited only to the weaker links in the food supply chain. Such practices can cause serious harm to the food supply chain as such, which may have a negative impact on the whole economy of the EU, and the end consumers. Business relationships are also significantly distorted by the "fear factor", which causes that the party with a weaker bargaining position does not fully exercise its rights and for fear of jeopardising the business relations it rather agrees to the often unfair conditions of the counter-party with greater bargaining power. For businesses with less bargaining power, unfair trading practices may result in excessive costs or lower than expected revenues, manifested by limiting investment and innovation; in the worse cases leading to the cessation of production and business activity as a whole.

In recent years, more and more attention is being paid to the issue of unfair trading practices, and although it is not possible to explicitly determine the extent of their application, a variety of analyses and surveys showed that unfair trading practices in the food supply chain occur very often. The majority of EU Member States evaluated the existence and application of unfair trading practices in business relations as the risk for the proper functioning of the food supply chain, and thus introduced or plan to introduce legislative regulation with a view to eliminate them. The specific form of legislative regulation, however, always reflects the specifics of each Member State, for example, in view of the structure and functioning of the food supply chain, the perception of the extent of the application of unfair trading practices, legal traditions, the institutional framework, etc. For this reason, legislative regulations at national level constitute relatively diverse ways to combat this phenomenon.

Another form of approach to the issue is represented by different voluntary platforms and self-regulatory mechanisms, whether at the European or national level. In 2013, the Supply Chain Initiative was established, as a joint initiative of 8 Pan-European associations, whose objective is to promote fair trading practices and allow a fair and transparent resolution of disputes in business relations. As the most important initiative in the framework of a voluntary approach to address unfair trading practices, it represents, without a doubt, an added value in the field of enlightenment, education and general awareness of the issue. On the other hand, its real contribution to the reduction of the extent of application of unfair trading practices has so far not brought the expected results. The most important multinational agricultural associations have not joined this initiative, what can be regarded as a reflection of their mistrust in the effectiveness of this voluntary self-regulation, supported mainly by associations representing retail and large multinational food operators.

The European Commission has been dealing with the issue of unfair trading practices in the food supply chain, and since 2009 has published a number of documents related to this issue. In its
opinion, in the light of its Report on Unfair business-to-business trading practices in the food supply chain of 29 January 2016, submitted to the European Parliament and the Council, it states that despite the fact that more than 20 Member States have introduced, or in the near future plan to introduce legislation in this area, the specific harmonisation approach at the EU level would at present not provide the added value. The European Commission favours voluntary platforms and self-regulatory mechanisms and expressed its support for and belief in the further development of the Supply Chain Initiative.

The plenary of the European Parliament in June 2016, adopted with 600 votes in favour to 48 (24 abstentions) the Report on Unfair Trading Practices in the Food Supply Chain, by which the European Parliament took a clear stand that the problem is very acute and that it needs to be dealt with urgently. The report notes that further analysis of the state of unfair trading practices will only postpone the need to act in the fight against such practices, and that it is necessary to take decisive and consistent steps aimed at their complete elimination. The scope of the problem requires the introduction of EU legislation, to ensure the proper functioning of markets and the honest transparent relations between all participants in the food supply chain. Unfair trading practices must be clearly defined and it is necessary to lay down specific penalties that will affect everyone who uses them.

On 30 June and 1 July 2016, an international expert conference on “Strengthening of the Farmers’ Position in the Food Supply Chain” was held in Bratislava. The aim of this conference, which was organised by the Ministry of Agriculture and Rural Development of the Slovak Republic in the framework of the Slovak Presidency of the Council of the EU, was to assess the status and bargaining position of farmers within the food supply chain, to analyse the key factors influencing the distribution of economic power in the chain and to discuss the possible instruments and measures that would lead to ensuring its long-term sustainability.

The conference was attended by more than 130 registered participants, including representatives of 22 Member States of the EU. Many speeches and statements were presented during the conference by members of the European Parliament, representatives of the European Commission – DG AGRI and DG GROW, representatives of the Agricultural Markets Task Force, representatives of certain Member States (Czech Republic, Slovakia, Slovenia), as well as representatives of international and national self-governing organisations and associations (COPA-COGECA, FoodDrinkEurope and EuroCommerce, The Supply Chain Initiative, the Slovak Agriculture and Food Chamber, and the Czech Food Chamber).

17 valuable presentations were also made during the conference, which explored the current state of the food supply chain from various angles, described the problems and challenges faced by the chain, as well as possible solutions for its better functioning and long-term sustainability. In the framework of the main topic, the individual presentations and the subsequent debates were devoted in particular to issues of organisation of agricultural producers and vertical cooperation, as well as the level of transparency in the food supply chain and the adequacy of the profit margin distribution between the parties of the chain. However, the most discussed topic of the conference - also in light of the current report of the European Parliament on this issue - was the issue of unfair trading practices, their impact on farmers and on the overall functioning of the food supply chain, and mostly the different approaches to the elimination of unfair trading practices. The conference participants also had the opportunity to listen to the current information about the Supply Chain Initiative.
However, along with the unquestionable support of the voluntary approach, the majority of presenters pointed out its shortcomings and its lack of effectiveness in terms of eliminating unfair trading practices in reality. A clear requirement for a legislative solution of unfair trading practices was made mostly in the presentations made by the representatives of the European Parliament and the Member States, experts from the Agricultural Markets Task Force, as well as the representatives of agricultural self-governing bodies. A key argument for the introduction of a uniform European legislation is based on the fact that unfair trading practices may seriously disrupt the proper functioning and further development of the EU single market.

The Slovak presidency considers this conference very useful, because in spite of the differences in approach to the solution of the issue, it clearly confirmed the need to strengthen the position of the farmers as the weakest link of the food supply chain. Based on the views put forward during the conference and in view of the need to deal with these issues on a European level, and also based on the efforts to find joint solutions, we submit for further discussion the following thematic areas linked to the key issues:

1. **Organisation of agricultural producers and vertical cooperation within the food supply chain**

In recent years, there have been significant structural changes in the food supply chain, which led to a high level of concentration and cross-border integration of entities operating in particular in the area of retail and food processing. The agricultural sector, however, continues to be characterised by the high levels of atomisation of economic activity. These changes have significantly deepened the differences in the economic power between retailers and large processors on the one hand, and farmers and small, or medium-sized processors on the other.

The reform of the Common Agricultural Policy of the EU and the new joint organisation of the market introduced a number of new measures to address disparities in the bargaining power between farmers, retailers and wholesale trade, and small and medium-sized enterprises in the food supply chain, in particular by encouraging the establishment and extension of producer organisations. However, especially in some Member States, the new measures have not had the anticipated effect, therefore it is necessary to look for new ways to strengthen the bargaining power of not only farmers, but also of small and medium sized businesses in the food supply chain.

**What needs to be improved in the framework of the Common Agricultural Policy and how should farmers be supported and encouraged to greater horizontal organisation as well as vertical cooperation in the food supply chain in order to strengthen their bargaining position in business relations?**

2. **Market transparency and a fair distribution of profit margins in the food supply chain**

The increasing concentration of market power on the part of retailers and large multinational processing entities, and the consequent deepening of differences in the bargaining ability in business relations can negatively influence the functioning of the entire food supply chain. Farmers and the food processing industry should be able to evaluate their production under such financial conditions, which will take into account the eligible costs of production, and at the same time leave space, and
potential for the production of innovative products with higher added value for the benefit of the consumer and with regard to the environment.

In order to increase the degree of market transparency and elimination of information asymmetries, it is necessary to increase the transparency of the pricing and the availability of data on the production of added value along the entire food supply chain through to consumer prices, and not only its selected links.

**What measures need to be implemented at the European level to eliminate information asymmetries and to achieve transparency in the process of pricing in the entire food supply chain?**

### 3. Unfair trading practices

One of the consequences of the significant differences in the economic strength of the individual links of the food supply chain is the application of unfair trading practices in business relations. These practices have serious negative impact on farmers in particular, as the economically weakest link of the chain, but also on small and medium-sized processing entities. Voluntary initiatives and self-regulatory mechanisms on the part of the actual business entities – whether at the European or national level – have unquestionable importance in supporting the change of culture and in improving the ethics in business relations. Nevertheless, they have not lead to any significant progress in terms of the scope of application of unfair trading practices, which is reflected also on the mistrust of farmers, as well as small and medium-sized processors to this type of solution.

Most Member States have thus introduced or plan to introduce legislation penalizing the application of unfair trading practices. The different national legislative regulations often show significant differences, what mostly results from the specifics of each Member State, and what could potentially interfere with the proper functioning and further development of the single market.

An effective solution seems to be the creation of a common framework at the EU level, which will allow the Member States with regard to their own specifics, a degree of application of unfair trading practices and a degree of threat to the sustainability of the food supply chain in order to more effectively address this issue.

**What form of a common framework at the EU level against the application of unfair trading practices in the food supply chain do you consider the most efficient, not only in terms of real efficacy to eliminate unfair trading practices, but also in terms of different approaches to dealing with this issue in different Member States?**

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