

Study on agricultural interbranch organisations (IBOs) in the EU

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National Legislation and Actions concerning IBOs

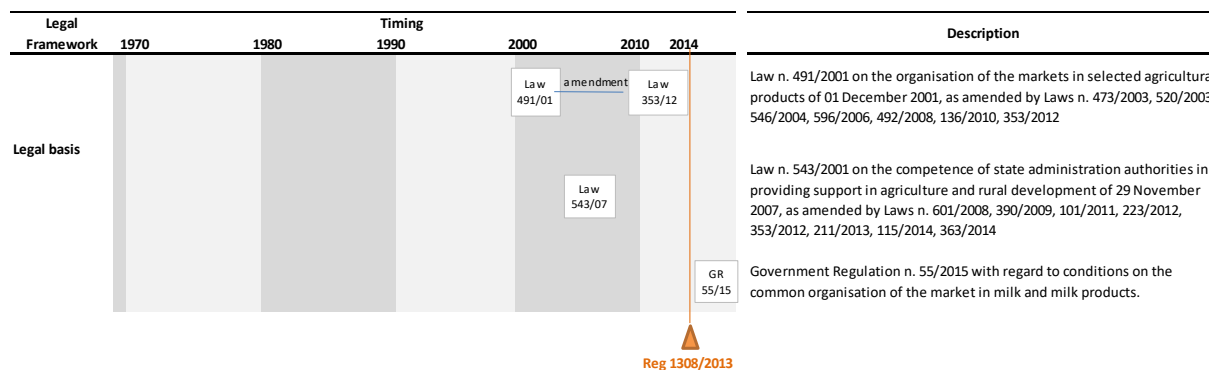
SLOVAKIA

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[Section 1: National legislation pursuant to Articles 157- IBOs, 158- Recognition of IBOs, 159 and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

Figure 1. Legal basis for IBOs recognition in Slovakia



Compiled by: Arcadia International and BNT attorneys-at-law

Summary of national legislation on IBOs

Slovakia has only a few provisions regarding interbranch organisations (IBOs). In the current legislation IBOs are mainly covered by **Law n. 491/2001** on the organisation of the markets in **selected agricultural products** which entered into force on 1 January 2002. That law covers primarily the treatment of slaughter cattle, but also mentions activities in the fruits and vegetable, hops, cut flowers, fish and fishery products, and milk and milk products sectors. The latest amendment of Law n. 491/2001, i.e. Law n. 353/2012, enabled the establishment of IBOs in the milk and milk products sector. In the other sectors this option does not exist yet.

In 2007 the national Parliament passed **Law n. 543/2007** which, applicable as of 1 January 2008, established the **Agricultural Paying Agency (APA)**. Headquartered in Bratislava, APA is the main competent authority for IBOs. APA is an organisation involved in financial relations under the budget of the **Ministry of Agriculture and Rural Development** of the Slovak Republic. It is responsible, inter alia, for granting of aid and advance payments and takes decisions on state aid in agriculture, food industry, forestry and fisheries. Furthermore, it executes intervention measures for selected agricultural products besides issuing import and export permits.

Concerning the **milk and milk products sector**, as of 1 April 2015, **Government Regulation n. 55/2015**, which has replaced Government Regulation n. 279/2012, has implemented Law n. 491/2001. Following that, APA published a guidance document for organisations applying for recognition as an IBO in that sector (**APA Guidelines**).

IBOs: definition, objectives and legal status

Under Slovak legislation, there is currently **no definition** of IBO. Article 10 par. 2 of Law n. 491/2001 makes still reference to Article 123 par. 3 of Regulation (EC) No 1234/2007.

However, APA Guidelines on IBOs in the **milk and milk products sector** define an IBO as 'an organisation comprising economic operators or professional associations with legal

personality whose economic activity is linked to the production of raw milk and with at least another phase of the supply chain, i.e. processing or trade, including distribution’.

In accordance with APA Guidelines, which make reference to Article 157 par. 3 Regulation (EU) No 1308/2013, an IBO in the milk and milk products sector must undertake one or more of the following activities in one or more regions of the EU, taking into account the interests of the IBO members and of the consumers:

- a) Improving knowledge and transparency of production and the market, including publication of statistical data on prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and providing analyses of potential future market developments as regional, national and international level;
- b) Ensuring better coordination of the way milk and milk products are placed on the market, particularly through research and market studies;
- c) Promoting consumption and providing information on milk and milk products on internal and external markets;
- d) Exploring potential export markets;
- e) Drawing up standard contract forms compatible with EU legislation for the sale of raw milk to purchasers and / or the supply of processed products to distributors and retailers;
- f) Providing information and carrying out research, which is necessary to adjust production towards changed market requirements and consumer tastes and expectations, in particular in regard to product quality and environmental protection;
- g) Maintaining and developing the production potential of milk and milk products, among others by promoting innovation and supporting programs for applied research and developing in order to exploit the full potential of milk and milk products, especially in order to create value-added products that are more attractive to consumers;
- h) Seeking ways to restrict the use of animal health products, improving the management of other inputs, increase food security and improve animal health;
- i) Developing methods and instruments for improving product quality at all stages of production and marketing;
- j) Exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designation of origin, quality labels and geographical indications, and
- k) Promoting integrated production or other environment-friendly production methods.

It should be finally noted that Slovak legislation does not regulate the legal structure of an IBO.

IBOs’ recognition and monitoring

With regard to the **milk and milk products sector**, Articles 3–5 of **Government Regulation n. 55/2015** provide for IBO’s recognition procedure. The latter is described in more detail in APA Guidelines, which contain the relevant application form to be used in case an organisation seeks recognition (Annex 5). APA Guidelines stipulate that, together with the application form, the applicant organisation must submit the following documents to APA:

- a) An extract from the Register of Associations of Legal Entities, not older than three months (original or certified copy);
- b) An extract from the Companies Register or other similar register, or Register of Associations of legal Entities, not older than three months, proving that the

members of the IBO are undertakings or associations with legal personality (original or certified copy)

- c) A list of members of the IBO, their identification and documents proving that the members account, **at least, for a 33% of the economic activity on the Slovak market.**

The applicant may file a request for recognition at any time. Within three months from the date of the application, APA must provide the Ministry of Agriculture and Rural Development with its opinion as to whether granting or not the requested recognition. If the application meets the conditions for recognition the Ministry must promptly notify APA. The applicant will obtain the decision on the recognition within four months from the date of submission of its application to APA.

Recognised IBO must notify APA in case any change occur to the circumstances that have led to their recognition. This must be done no later than 30 days after the changes in question have occurred.

If an IBO does not longer fulfil the conditions for recognition as stated above, APA may recommend to the Ministry of Agriculture and Rural Development to **withdraw the recognition**. In any event, APA must give a prior warning to the relevant IBO.

IBOs' agreements: approval and extension of rules

Under Slovak legislation agreements promoted by IBOs are not subject to approval by competent authorities. However, national legislation requires those agreements not to breach EU legislation. There are currently no provisions allowing extension of IBOs' rules to non-members.

Rules on financing

There are currently no provisions regulating the financial structure and operation of IBOs. Likewise, there are no provisions allowing for the extension of fees to non-members.

Representativeness

According to Article 10b par. 2 Law n. 491/2001, Article 4 par. 4 (c) Government Regulation n. 55/2015 and APA Guidelines the members of an IBO in the milk and milk products sector must account, at least, for **33% of the economic activity on the relevant Slovak market.**

Section 2: Other national legislation relevant to activities and operation of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation

Not applicable

Section 3: History and list of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation

Not applicable

Section 4: Use of the available legal framework for IBOs and other forms of cooperation between producers and other stages of the food supply chain established in the context of CMO Regulation

The legal framework governing IBOs in Slovakia is still developing. In 2015 Government Regulation n. 55/2015 filled one gap in the milk and milk products sector. National legislation on IBOs in other sectors is currently under development. However, with regard to producer organisations there is a broader legislation. For instance, Government Regulation n. 55/2015 covers producer organisations and associations of producer organisation in the milk and milk products sector. On the other hand, Law n. 369/2008 enables the establishment of producer organisations in the fruits and vegetables sector whilst Law n. 313/2009 in the wine sector.

There are currently **no recognised IBOs** in Slovakia nor requests of recognition pending. Furthermore, there are **no recognised producer organisations or associations of producer organisations**, which are a prerequisite for the establishment of IBOs. This also means that none amongst the **other forms of cooperation** foreseen by Regulation (EU) No 1308/2013 involving negotiations led by a producer organisation on behalf of their members has been implemented to date at national level. Similarly, the provisions of Regulation (EU) No 1308/2013 concerning the regulation of supply of ham and cheese covered by EU quality schemes and national measures for the stabilisation and improvement of the wine market have not been implemented to date.

With regard to **sugar**, there is currently in place a sectoral agreement (*Odvetvová Dohoda*), which was concluded between the Union of Sugarbeet Producers of Slovakia (*Zväz pestovateľov cukrovej repy Slovenska, ZPCRS*), on the one side, and the Slovak Sugar Producers' Association (*Slovenský cukrovarnícky spolok, SCS*) on the other side. The agreement regulates the conditions of purchase contracts for sugar beet and sugarcane. In force since 2006 it was adopted in accordance with the provisions of Council Regulation (EC) No 318/2006 on the common organisation of the markets in the sugar sector.

The Ministry of Agriculture and Rural Development explains the current absence of IBOs as follows. The main reason appears to be that the establishment and the functioning of IBOs are not supported financially as well as that access to public funds does not require being a member of an IBO. Additionally, there seems to be a general distrust towards the possibility that actors of the same production chain might be able to work together under the auspices of an IBO as well as doubts about the benefits stemming from the IBO membership.

Section 5: National practice concerning Article 210 CMO Regulation and decisions of competition authorities/national courts on the compatibility of IBOs activities/practices with national competition law

Not applicable

Section 6: Literature

- National Legislation

Law n. 491/2001 on the organisation of the markets in selected agricultural products <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/491/20121201>

Law n. 353/2012 on amending Law n. 491/2001 <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2012/353/20121201>

Law n. 543/2007 on the competence of state administration authorities in providing support in agriculture and rural development <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/543/20150101>

Law n. 369/2008 on the implementation of certain measures of the common market organisation for fruits and vegetables <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/369/20081001>

Law n. 313/2009 on viticulture and winemaking <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2009/313/20160101>

Government Regulation n. 55/2015 with regard to conditions on the common organisation of the market in milk and milk products <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/55/20150401>

Law n. 136/2001 on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council n. 347/1990 on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic - <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/136/20140701> (English version: http://www.antimon.gov.sk/data/files/403_act-no-136_2001-valid-from-172014.pdf)

APA Guidelines <http://www.apa.sk/download/8735/>

- National competent authorities

Ministry of Agriculture and Rural Development

<http://www.mpsr.sk/>

APA's official webpage

<http://www.apa.sk/>