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The agricultural exemption as the form of permitted use of the plant variety protected by plant breeder's right

The current provisions from the area of so called intellectual property law allow recognizing as object of such breeders' 'property' new plant varieties as well. At the same time, those provisions allow the farmers to use such varieties without consent of the breeders, and even, in case of so called 'small famers', without paying fees to the breeders. This regulation is called agricultural exemption (farm saved seed) and has been functioning in Polish law since more than 20 years, in the last years more and more effectively, being object of the disputes between the farmers and the breeders, though.

The aim of the project is the examining, whether the Polish regulation of the agricultural exemption in force guarantees proper balancing of the divergent interests of the breeders and of the farmers. Only the adequate agricultural exemption's mechanism may guarantee the protection of legitimate interests of the both parties, namely the breeders and the farmers and in consequence further undisturbed progress in the breeding of new, valuable plant varieties and at the same time the possibility to conduct the effective agricultural production. The reason for undertaking the research is the lack of the comprehensive monograph in this topic and the great practical significance of this issue – numerous doubts regarding the interpretation of the provisions and the disputes between the breeders and the farmers.

The analysis shall encompass the similar regulations in EU law and legislation of some other selected countries (e.g. Germany, USA). Statistical (economical) data regarding the local (in particular Polish) determinants of the development in the agriculture and the breeding shall be taken into account as well.

The results of the research will be published in comprehensive monograph.