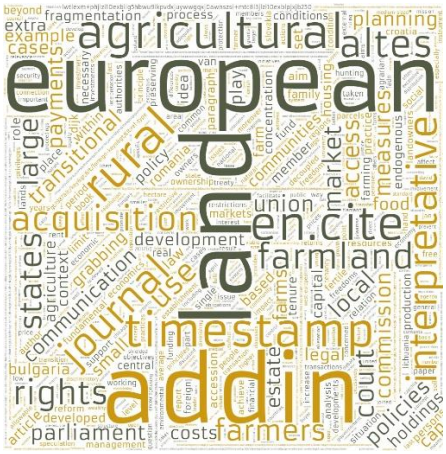
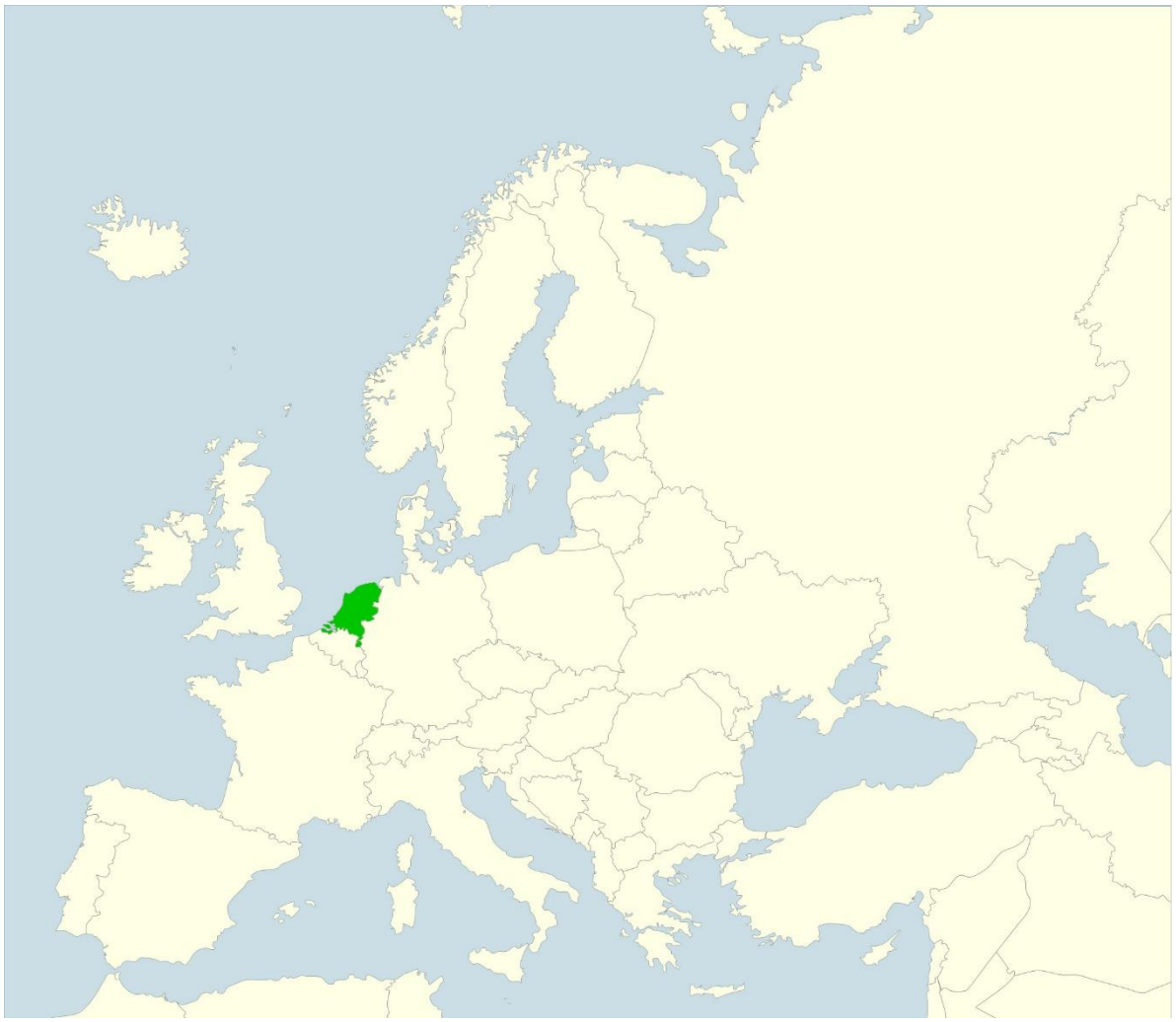
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LAND POLICY FOR RURAL DEVELOPMENT IN THE EUROPEAN UNION AND ITS IMPACT ON ACCESS TO LAND

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Abstract: The concentration of farmland has potentially a negative impact on planning for local rural development as it impedes access to land for other rural initiatives. Land policies in the European Union aiming to reserve lands for local communities are constrained by principles of the EU single market, such as the free movement of capital and the freedom of establishment. Especially in several Central and Eastern European member states, the European Commission has critically reviewed policies to shield lands from the single market. This paper reviews and analysis this issue in relation to the planning for rural communities.

Keywords: access to land; rural development; European Union; land grabbing; land market; common agricultural policy; land policy

Samenvatting: De concentratie van landbouwgrond heeft een negatieve invloed op de planning voor het landelijk gebied, omdat het de toegang tot grond voor een scala van andere plattelandsinitiatieven belemmert. De beginselen van de Europese interne markt, zoals het vrije verkeer van kapitaal en de vrijheid van vestiging, belemmeren beleid om grond te reserveren voor lokale gemeenschappen. Vooral in de Centraal- en Oost-Europese lidstaten heeft de Europese Commissie het beleid om land af te schermen van de interne markt ingeperkt. Dit artikel bespreekt en analyseert dit probleem in relatie tot de planning voor plattelandsgemeenschappen.

Trefwoorden: toegang tot grond; plattelandsontwikkeling; Europese Unie; landjepik; grondmarkt; gemeenschappelijk landbouwbeleid; grondbeleid

Highlights

- Farmland holdings are more unequal in CEE than in the rest of the EU
- Domestic actors play a large role in the concentration of farmland
- The CAP's incentives to hold land affect access to land negatively
- Only sound rural policies allow exceptions to single EU market principles

1. Introduction

Land is an important asset to rural communities. Traditionally, agriculture has been the backbone of rural life and land plays an essential role in this. Over the last decades, a process of agricultural modernisation has resulted in concentration of agricultural land in less, larger farms, which are more and more integrated in specialised economic networks (de Roest *et al.*, 2018). This process of enlargement and involvement in international supply chains, has come at the expense of an alienation between farming and local communities. These large specialised farms do not have the 'territorial fitting' (Tisenkopfs *et al.*, 2020) of smaller farms. Moreover, as farmland is controlled by a smaller share of the community, less people in the community have a say on what happens with the land. This situation fits to a long, and ongoing, history of a separation of landownership and land use. Alternatively, the dispersion of powers in land, from central control to local tenure rights, has been going hand in hand with economic development (Powelson, 1987; 1988). Rural communities face two issues in this respect. Firstly, the relative to urbanised areas, slow development, or even decline of rural areas (Li *et al.*, 2016). Secondly, the issue of land concentration, resulting in that land is more and more owned by a few, in many cases even absent, owners. This issue is, for example, discussed in the European Parliament (EP, 2017), which is concerned because 52.2% of EU agricultural land is controlled by only 3.1% of the farms. Moreover, the 76.2% smallest farms cultivate only 11.2% of the EU land in 2013. Only few farmers in Europe are below 35 years

of age and most farmers are above 55 years of age. Access to land is an issue that is raised by many parties (Ingram and Kirwan, 2011). For young farmers, access to land is one of the main issues (Monllor i Rico and Fuller, 2016; González *et al.*, 2021) standing in the way to their involvement in agriculture (Zondag *et al.*, 2015). This relates both to inheritance of family farms (Leonard *et al.*, 2017) and to the access of rural newcomers (Monllor i Rico and Fuller, 2016; Grubbström and Joosse, 2021). Moreover, this issue may contribute to a detachment between rural communities and local rural land. This engagement of the 'non-owning majority in rural communities' (Øian and Skogen, 2016, 106) with land and property rights may involve also wider rural activities as hunting and angling in which local communities may have access to land without ownership and which may be harmed by selling rights to wealthy outsiders, e.g., for moose hunting in Norway (Øian and Skogen, 2016), or by the conversion of sheep farms into 'sporting estates' (Glass et al., 2019, 8) to hunt deer and grouse in Scotland.

This separation between the control of land and rural communities may impact the potential for community-led development of rural areas, which is currently promoted by EU polices (EP and CEU, 2021a; Furmankiewicz *et al.*, 2021). Policies and regulations that aim to reserve land for local communities may, however, face European rules on the single market that protect, i.e., the freedom of establishment and the freedom of capital. These principles have been resulting in issues for planning policies before, such as, for retail planning (Korthals Altes, 2016) and an anti-gentrification regulation (Korthals Altes, 2015).

The paper provides an analysis of an interpretative communication of the European Commission on the issue on policies that restrict the acquisition of farmland. In the following section, the idea of access to land versus land grabbing in the EU is presented and placed within the theoretical principles of the law on diminishing returns and transaction costs, this is followed by a section on debate in the EU and the interpretative communication by the commission. In conclusion, this paper discusses this in relation to the impact this may have on local rural development policies.

2. Access to land versus land grabbing in the EU

The issues of access to land and land grabbing have been discussed widely in academic literature (De Schutter, 2011; Borras Jr *et al.*, 2012; Wolford *et al.*, 2013; Sändig, 2021) and are worldwide on the agenda of NGOs, as FIAN International (Suárez, 2015), working on the realization of the right to adequate food and nutrition. Providing access to land is part of the 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security' developed by FAO (2016), and land grabbing is also on the agenda of the UN Human Rights Council in its work on establishing a UN declaration on peasant's rights (UNHRC, 2018).

The tension between land grabbing and access to land is, however, not only of relevance to the Global South, where, e.g., many EU-based organisations acquire large land portfolios to the detriment of local access to land (Borras *et al.*, 2016), but also in the EU itself, 'land grabbing' (Szocs *et al.*, 2015) is a large issue, which contributes to a separation between rural communities and local land. Szocs *et al.* (2015) referred to the situation in Romania where many external parties got hold of fertile black soil. This is an ongoing process, which can be exemplified by actors advertising investments in Romanian land (Frisian Investors, 2018) and publications directed to professionals in agriculture (Engwerda, 2017; van der Woude, 2017) and the organisation of business trips on the opportunities for agricultural entrepreneurs in Romania (Boekhorst, 2018; LTO Noord, 2018). In the proceedings of a business trip, observations are shared, for example, that Romania as a dual land market of many very small farms and a few very large one that predominantly lease their land.

'The average Romanian farmer appears to be motivated to increase income on short-term with as low input as possible. Long-term soil improvements are less on the agenda, partly because a lot of the soil is not owned. The average Romanian would be tending to acquire extra land to increase income, instead of investments to increase the income of current hectares.' (Boekhorst, 2018)

These observations are relevant as land is for these rural entrepreneurs not only considered to be an area for agricultural production, but also as a destination for the manure surplus of intensive cattle farming.

Here, two economic insights, the law on diminishing returns and the relevance of transaction costs, play a role.

The classical economic law on diminishing returns is based on productivity and fertility of land. Principles of this law can be found in works by Ricardo (1817), Malthus (1836, 1st ed 1820) and Marshall (1920, 1st ed 1890). This law refers to the fact that 'the farmer finds that at last a stage is reached at which more intensive cultivation will not pay its expenses, and it is better to pay more rent for extra land, than to face the diminution in return, which he would get by applying more capital and labour to his old land' (Marshall, 1920, 1st ed 1890, Book IV Ch3 §7). The question when diminished returns will result in acquiring extra land is very context dependent. Moreover, the question whether a plot of land is more fertile than another plot of land depends also on the context.

'We cannot then call one piece of land more fertile than another until we know something about the skill and enterprise of its cultivators, and the amount of capital and labour at their disposal; and till we know whether the demand for produce is such as to make intensive cultivation profitable with the resources at their disposal. If it is, those lands will be the most fertile which give the highest average returns to a large expenditure of capital and labour; but if not, those will be the most fertile, which give the best returns to the first few doses. The term fertility has no meaning except with reference to the special circumstances of a particular time and place.' (Marshall, 1920, 1st ed 1890, Book IV Ch3 §3)

In the context of the European Union, the Common Agricultural Policy (CAP) and its decoupled payments play a role in this. Decoupled payments are payments that farmers receive per hectare of farmland they keep. It is decoupled from agricultural production. In most EU member states, the Netherlands and Denmark – are the most notable exceptions, the decoupled payments per hectare are higher than the rent (EC, 2018; FADN, 2022) (Figure 1), which has by this way a large impact on decisions to acquire extra land (Marks-Bielska, 2013; Sikorska, 2014; Ciaian *et al.*, 2018; Grubbström and Eriksson, 2018), as this includes the opportunity to 'harvest' extra EU payments, rather than to invest in higher returns on already held lands (Alexandri and Luca, 2019). Extra lands are so more 'fertile' in producing extra EU payments, than investing in existing lands.

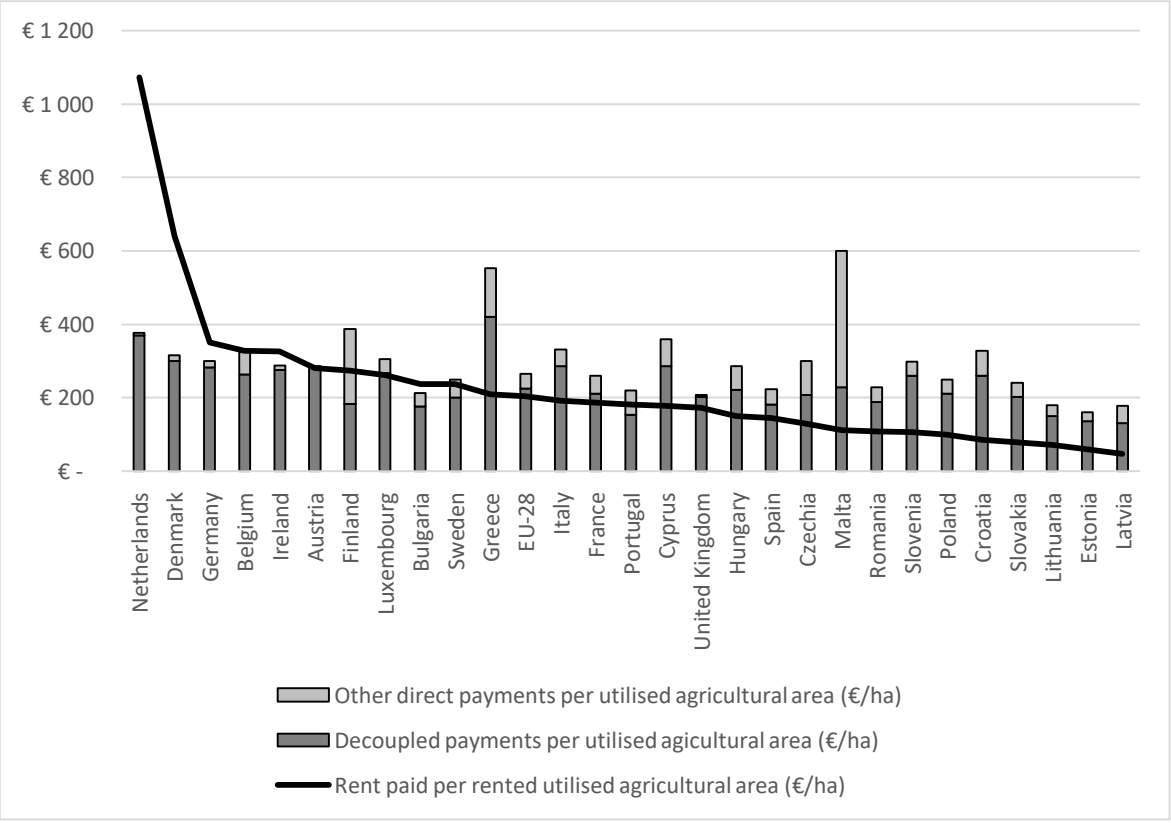


Fig 1. Rent and decoupled payments and other direct payments in 2019 according to the Farm Accountancy Data Network. Source: author based on FADN, 2022

A second insight relates to transaction costs, which theory is not developed based on agricultural production, but on the make-or-buy question of industrial production (Coase, 1937) and questions relating to environmental harm (Coase, 1960). Differences in consolidation of farms clearly point to differences in transaction costs as it is about the classical question 'to discover why a firm emerges at all' (Coase, 1937, 390), which is so, because transaction costs can exceed organizational costs. These transaction costs play a role in land markets. In the Romanian context, for example, ownership rights are not in all cases recorded adequately in the cadastral system as the transaction costs to do so are quite substantial based on the post-socialist land allocation procedures and the division of rights over several family members that must all confirm to registration. This contributes to a preference for leases as full-ownership is much more costly and the balance of extra land versus extra costs in current land. The result is that in many areas in Central and Eastern Europe (CEE), a 'reverse tenancy configuration' (Amblard and Colin, 2009) has emerged of many small landowners with large tenants that consolidate land holdings in 'large-scale corporate farms' (Amblard and Colin, 2009, 829). Transaction costs, including 'costs related to the asymmetric information, co-ownership of land (as a result of the land restitution process), the precarious situation of the registration of properties, the high level of commissions and fees in connection to property transfers.' (Luca, 2019, 3), played an important role in this.

It must also be noted that in most of the CEE states (notable exceptions have been Poland and Yugoslavia) farmland has been nationalised or collectivised during communist times, and in a majority of these (an exception is Hungary, which used a voucher system (Hartvigsen, 2014)), the land has been returned directly to the heirs of the original owners who became joint owner of often very small parcels (van Dijk, 2003a). In the meantime, there has been processes of industrialisation, meaning that these descendants of the owners could live in urban areas and that the people working on the land were sometimes descendants of landless farm workers and this process contributed in certain areas to an alienation between rural communities and the land (Sabates-Wheeler, 2002).

3. Accession to the single European land market

In the Accession Treaty of new member states in CEE, that is, Czechia, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia in 2003 (EC, 2008), Bulgaria and Romania in 2005 (EC, 2010) and Croatia in 2011 (EC, 2017b) there are transitional measures allowing these Member States to maintain existing restrictions on the acquisition of agricultural and forestry land by natural and legal persons of other European Union/European Economic Area countries for a limited period, 12 years for Poland and seven years for the other countries, regarding the acquisition of agricultural real estate, which restrictions have been reviewed during the period (EC, 2008; 2010; 2017b). These restrictions differ by member state, but do not involve a 'complete and strict ban' (EC, 2008, 4) of foreign access to land markets, as they may, for example, may be allowed to rent land (EC, 2010), to participate in companies that own land (EC, 2008) or even, as in Croatia (EC, 2017b), to buy land as a self-employed farmer.

The idea is that new member states can use this transition period '…to tackle the imperfections of the agricultural land market and the agricultural sector, and make it more competitive in the internal market' (EC, 2017b, 2). One of the reasons behind foreign interest in the acquisition of land in new member states can be the relative low price for agricultural land. Already in the pre-accession period, land prices in Bulgaria and Romania grew considerably but to a level of € 895 per hectare in Bulgaria and € 900 per hectare in Romania in 2004–2005 (EC, 2010), which is low compared to many other EU states, except for other new member states as in Estonia and Lithuania, where prices were still below € 800 per hectare in 2005–2006 (EC, 2008). Even with protection in place, land prices went up in new member states, for example, to € 1200 per hectare in Bulgaria and € 1400 per hectare in Romania in 2007–2008 (EC, 2010). Although these land prices seems to be low, there are still issues of affordability, as the prices reflect the agrarian income (EC, 2017b).

The idea was that this transitional period, should be used to improve the conditions for the land market. Many former socialist states property market institutions, such as the land register, were in need of maintenance or redevelopment – and there are also issues of unknown owners due to undivided estates redistributed to the original owners after decades of socialist rule (Filčák, 2012) – but also more direct

actions relation to land consolidation and irrigation (Bogaerts *et al.*, 2002; EC, 2008; 2017b). Part of this legacy was an extreme fragmentation of landownership structures. As land has been split by inheritance and land markets did not operate to promote efficiency, land rights of an individual could not be more than the size of an A4 piece of paper or could have an odd size of 7 centimetres by 600 metres (Bogaerts *et al.*, 2002). Next to many owners of very small plots of land, there are relatively few landholdings, often by companies, that are very large. In between, there is a gap at the level of mid-sized land holdings, the backbone of family farming in many West-European contexts, but which is underrepresented in CEE (van Dijk, 2003b; Bański, 2017). The GINI index, measuring inequality in landholdings (from 0 equal to 1 unequal; based on a method used by: Kay *et al.*, 2015; Korthals Altes, 2021), is in NUTS 2 regions in CEE (including the former GDR) in average 0.72, which is a lot higher than in other EU regions in which it is in average 0.59 (EUROSTAT, 2021). There are, however, considerable differences between regions (Figure 2).

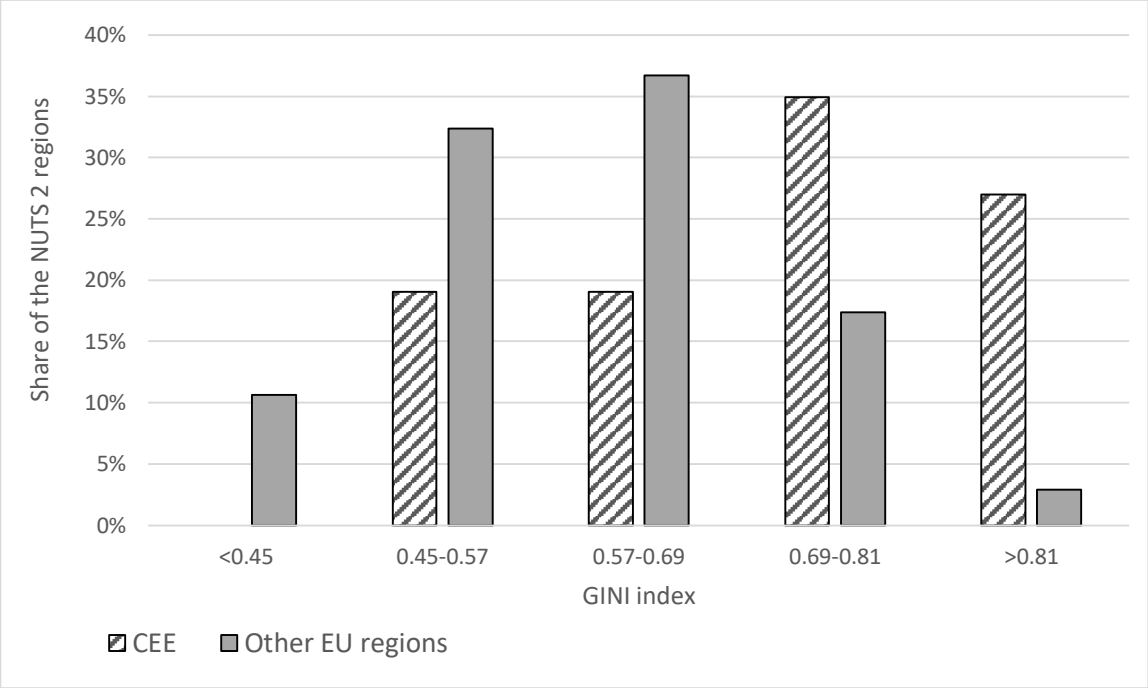


Fig 2. Distribution of GINI index of land holdings in NUTS 2 regions between CEE and other EU regions in 2016. Source author, based on EUROSTAT, 2021

The idea was that the fragmented ownership of small holders hampered agrarian development and that it would be beneficial for both agrarian and rural development to overcome this fragmentation by creating mid-sized, West-European style, family farms. Protectionist policies would not be the most effective way to realize that aim (van Dijk, 2003b). A recent longitudinal study of landownership structure in Czechia between 1785 and 2016 shows an enduring trend of getting smaller land parcels and more owners and co-owners of agricultural land (Sklenicka *et al.*, 2017). Such a development towards smaller parcels will enforce the dual land tenure structure of many small owners and a few large landowners as small land parcels become unviable for agrarian production and the economical most viable use is to rent them to large landowners who can farm here as part of their larger land portfolio, that is 'the smaller the parcels are, the larger blocks they tend to create' (Sklenicka *et al.*, 2014, 590). Skleničkа et al. (2017) expect that fragmentation will continue and that probably the shift from population growth to population decline may slow down the growth of the number of owners. Based on these experiences, it cannot be taken for granted that lowering land protection will result in the emergence of mid-size landholdings. The conditions of West-European land markets maybe quite specific and different from the conditions in CEE.

At the end of the transition period, many states adopted legislation to prolong the situation that the agricultural land market was shielded off from the single market. In some cases, national Courts, such

as the Constitutional Court of Bulgaria (Grozdanova and Georgiev, 2021), has ruled that these restrictions did not follow legal requirements, and lawmakers have adjusted the rules without changing the main aim of prolongation the shielding of agricultural land markets from European market competition. The European Commission did not accept this continuation and started enforcement actions against Bulgaria, Hungary, Latvia, Lithuania and Slovakia (EC, 2015a; 2015b; 2016), because they restricted the free movement of capital and the freedom of establishment.

'The main concern in Bulgaria and Slovakia is that buyers must be long-term residents in the country, which discriminates against other EU nationals. Hungary has a very restrictive system, which imposes a complete ban on the acquisition of land by legal entities and an obligation on the buyer to farm the land himself. In addition, as in Latvia and Lithuania, buyers must qualify as farmers. While the Commission agrees that national authorities should be able to properly regulate farm land markets to maintain such land in agricultural use and promote local development, it found a number of these measures excessively restrictive and discriminatory in terms of attracting investment in rural development.' (EC, 2016, 1)

These actions of the Commission contributed to concerns by the European Parliament (EP) on issues of rural land and local development. Members of the EP were concerned that actions of the Commission would open up CEE as a hunting ground for land grabbing. Moreover, there were signals that this land grabbing was already taken place. So they were not so sure that measures taken were indeed 'excessively restrictive and discriminatory' as the Commission indicated. The idea of the Commission is that lifting barriers to investment in land, will open up rural areas for investment to address to other main issue of rural development, i.e., access to capital.

Issues the EP raised, were not only based on local development, but were also related to the fair allocation of European funding of the Common Agricultural Policy (CAP). As 3.1% of the farms control 52.2% of farmland in Europe and as European CAP-funding is largely based on decoupled payments per hectare of land, EU-funding largely goes to few large farms (EP, 2017): 20% of the farms get 80% of the EU funding of over € 40 billion a year (EC, 2018). Although there is a cap on maximum CAP contributions, large enterprises can avoid this by owning several smaller sub-entities. A study by the Joint Research Centre has, moreover, revealed that 51%, of these CAP payments capitalize in land rents (Ciaian *et al.*, 2018). Case studies of specific contexts confirm the capitalisation of decoupled payments in land market prices (Olagunju *et al.*, 2022). This effect illustrates that the classic theory of David Ricardo (1817) that policy measures on agricultural markets may end up in the capitalisation of land rents due to the finite area of land, has its relevance today. So a large part of EU-funding adds to the assets of wealthy farmers. For receiving CAP funding, it is not obliged to actual farm; the land must be kept in good agricultural and environmental condition (Brady *et al.*, 2017). Therefore, the EP is worried that EU funding does not support rural development, but supports wealthy absent landowners. According to the EP

'…small and medium-sized farms, distributed ownership or properly regulated tenancy, and access to common land, are the best way of ensuring a responsible relationship with the land and sustainable land management, and of fostering identification and a sense of belonging; […] such forms of tenure encourage people to remain in rural areas and enable them to work there, which has a positive impact on the socio-economic infrastructure of rural areas, food security, food sovereignty and the preservation of the rural way of life; […] the unequal distribution of, and access to, land and natural resources increase the risk of divisions within society, social imbalances, loss in the quality of work and life, and impoverishment; […] the high concentration of power in sectors within the EU's food market could affect consumer rights negatively and reduce farmer incomes; […] farmers who do not own their land should be ensured leases that are robust enough, and of sufficient duration, to safeguard a return on their investments' (EP, 2017, V).

Therefore, land tenure, is according to the European Parliament, is essential for rural development and in the preservation of 'the European model of farming' (EP, 2017, W). The concentration of farmland in the hand of a few landowners may adversely affect rural development negatively in relation to matters of socio-economic viability, including the provision of jobs, the rural standard of living, food supply and a balanced territorial development. The EP sees that access to land is, especially for younger generations, very difficult. Land prices are not based on agricultural production but on 'the creation of speculative

bubbles' (EP, 2017, AL). Taken this context, the EP indicates that land management and regional development are in essence matters of the member states, which can make a difference as. '..well-considered and coordinated land market policies, implemented with the instrument of regional and local land use planning, should help to reduce non-agricultural land use' (EP, 2017, 10) and the EP calls on member states to take measures to address speculation with farmland. The EP also calls on the Commission to maintain 'measures to combat the concentration of agricultural land and to develop additional measures in support of micro, small and medium-sized enterprises' (EP, 2017, 42).

4. The interpretative communication on farmland

As response to the concerns of the EP, the Commission (EC, 2017a) has published an interpretative communication on the acquisition of farmland and EU law (Godžirov, 2020; Grozdanova and Georgiev, 2021). Such an interpretation is not formally legally binding in the sense that the European Court of Justice (ECJ) must interpret it as a source of law, but it does bind the EC in its role as law enforcement agency in so far as the interpretation is in conformance with EU law (ECJ, 2010, paragraph 47; 2014, paragraph 51). So, it may have a direct impact on activities of the Commission in infringement cases.

In this interpretation, the Commission indicates that the acquisition of farmland 'falls within the remit of EU law' (EC, 2017a, 5) as 'Intra-EU investors enjoy the fundamental freedoms, first and foremost the free movement of capital and the freedom of establishment. These freedoms are integral parts of the internal market where goods, persons, services and capital can circulate freely.' (EC, 2017a, 5). Limits of the acquisition of farmland, are such limitations of these fundamental freedoms and it is therefore that the EU has competence. The Commission stresses that the European market also has benefits for local communities, especially because it allows access to finance and the market in general (EC, 2017a). The Commission explains that limitations on these freedoms can be allowed, as

'…EU law also recognises the specific nature of agricultural land. The Treaties allow restrictions on foreign investments in farmland, where they are proportionate to protect legitimate public interests such as preventing excessive land speculation, preserving agricultural communities or sustaining and developing viable agriculture.' (EC, 2017a, 5)

Therefore, preserving agricultural communities, which may be one of the aims of rural planning, is a legitimate interest that may justify limitations on the fundamental freedoms including the free movement of capital, for example, movement of capital to acquire a large land portfolio, or the freedom of establishment, such as starting a big farm without involving the local community.

The Commission discusses several policy objectives that, in principle, may limit the fundamental freedoms. These objectives include (1) increasing the area of land holdings to make them economically exploitable and to avoid land speculation, (2) preserving agricultural communities to 'maintain a distribution of land ownership, which allows the development of viable farms and management of green spaces and the countryside, encourage a reasonable use of the available land by resisting pressure on land, prevent natural disasters, and sustain and develop viable agriculture on the basis of social and land planning considerations' (EC, 2017a, 11), (3) preserving traditional forms of farming that involve owner-occupancy to 'ensure that agricultural property be occupied and farmed predominantly by the owners, preserve a permanent agricultural community, and encourage a reasonable use of the available land by resisting pressure on land' (EC, 2017a, 11), (4) 'to maintain, for town and country planning or regional planning purposes and in the general interest, a permanent population and an economic activity independent of the tourist sector in certain regions' (EC, 2017a, 11), and (5) military reasons. So, in principle, it is possible to establish national measures to ascertain local access to land, providing certain conditions are met.

'Generally, national measures liable to hinder the exercise of fundamental freedoms can only be permitted if a number of conditions are fulfilled: the measures are not discriminatory, they are justified by an overriding public interest, they are suited to attaining the objective sought and they do not go beyond what is necessary to achieve that objective and cannot be replaced by less restrictive alternative

means (…). Moreover, national measures must comply with other general principles of EU law such as legal certainty.'(EC, 2017a, 10)

The principle of proportionality of a measure involves that member states must proof that a measure does not go beyond what is necessary to achieve the 'legitimate objective' 'in a consistent and systematic manner' (EC, 2017a, 12), and there is no 'possible alternative measure which could pursue the public interest at stake in a manner that is less restrictive to the free movement of capital or the freedom of establishment' (EC, 2017a, 12) Based on these principles, the European Commission discusses several policy potential measures to ascertain the access to land, but which limit the fundamental freedoms.

Prior administrative approval of the transfer of agricultural land may be justified as it provides less intrusion and more legal certainty than alternatives, such as, the annulation of transactions afterwards. However, prior authorisation 'must not grant discretionary powers that can lead to arbitrary use and decisions by the competent authorities' (EC, 2017a, 12). Hence, open criteria as 'under special circumstances' (EC, 2017a, 12) are not allowed. Furthermore, the Commission refers to a case of the ECJ (2013; see also Korthals Altes, 2015), which did not approve a 'sufficient connection with the commune' (ECJ, 2013, paragraph 54), defined as 'a professional, family, social or economic connection to the commune as a result of a significant circumstance of long duration' (ECJ, 2013, paragraph 57) as a criterion that can be used for such a prior approval proceedings in the context of anti-gentrification policies (Korthals Altes, 2015).

A pre-emption right in favour of tenant farmers, or farmers more generally, can be an instrument to promote the acquisition of land by farmers; it is less restrictive than the alternative of a prohibition of land sales to non-farmers, which is therefore not acceptable (EC, 2017a).

Price controls to farmland are considered to be restrictions on the movement of capital. However, a restriction that prohibits sales for 'excessively speculative' (EC, 2017a, 13) prices, which must be established by 'objective, non-discriminatory, precise and well-tailored criteria can be suitable to curb excessive land speculation or to save professional farmers from purchase costs, which could endanger the profitability of their farms' (EC, 2017a, 14). However, it must be established that these price controls do not go beyond what is necessary and it must be considered whether there are less burdensome, alternative, measures.

Self-farming obligations are according to judgements by the ECJ not allowed as it limit the possibility to lease land to farmers who do not have the means to buy it. In the case land is already leased,

'…such a condition precludes a transfer to a new owner (...) who has undertaken to continue to have the land farmed by the same tenant. By reserving the possibility of acquiring and farming property to farmers who have the resources to own the land concerned, that condition thus reduces the possibility of leasing the land to farmers who do not have such resources. It has the further effect of precluding legal persons, including those whose object is farming, from acquiring farmland. It therefore constitutes an obstacle to planned transactions, which do not in themselves affect the agricultural use and the continued farming of the land by farmers or legal persons such as farming associations.' (ECJ, 2003, paragraph 51)

The Commission has comparable objections to obligations that the buyer should have a qualification in farming as it precludes the fact that the buyer can organize that someone else is farming the land or to obligations that the buyers has to reside on or near the land acquired (EC, 2017a). Moreover, 'any residence requirement amounts to an indirect discrimination on grounds of nationality' (EC, 2017a, 15), which is a no go in EU law. This also excludes possibilities to set restrictions based on 'having knowledge of the language of the country concerned' (EC, 2017a, 15). Another restriction not allowed is to prohibit sales to legal persons. 'When the object of a legal person is farming, the prohibition on selling to legal persons is an obstacle to transactions which do not in themselves affect the agricultural use' (EC, 2017a, 16).

The Commission takes a more balanced position on land acquisition caps. From one point of view, limits to the size of land holdings can run counter to interests that have been '…recognised as being in the overriding public interest, namely to increase the size of land holdings so that they can be exploited

on an economic basis, or to allow the development of viable farms. From another point of view, given that farmland is a limited resource, some other acquisition caps seem to be suitable to prevent excessive land ownership concentration to support family farming and the development of medium-sized farms.'(EC, 2017a, 16) These measures should be consequently reviewed carefully. Objective and well-defined criteria and adequate possibilities to legal redress are of importance.

The highest possible care is also needed for privileges to local acquirers as these may as well privileges nationals of the member states. In some cases, this may be allowed, for example, to pursue objectives '…as increasing the size of land holdings to develop viable farms in local communities or preserving a permanent agricultural community. At this level, the condition is that the privileges have to reflect the socioeconomic aspects of the intended objectives. This could be the case if pre-emption rights are granted to local farmers to address land ownership fragmentation, for instance, or if other special rights are given to locals to accommodate concerns resulting from their geographical situation (for example, less developed regions)' (EC, 2017a, 17). If, for instance, conditions not only provide privileges to locals in a challenging socioeconomic position, but also to other persons who do not need special protection, because they have the means to buy land, the measure can be disproportionate.

Furthermore, conditions of reciprocity are not allowed. One member states may not limit its adherence to EU law on the condition that other member states do so.

The Commission brought one of the infringement proceedings to the European Court of Justice. The ECJ (2019) supported the European Commission in its objections against a Hungarian regulation to abolish all usufruct rights, except those of family members, without compensation. Many of these rights have been closed legally and registered by the authorities. Abolishing all of these rights goes beyond its purpose (ECJ, 2019). Furthermore, the argumentation of public interest was not sound, and even then, compensation was due. The result is that the Hungarian authorities have decided to register these usufruct rights again (Növekedés.Hu, 2022). The ECJ (2019) case shows the line of argumentation of restrictions to the freedom of capital in action, which involves that different steps in the argument must be backed by legally convincing arguments and that, especially in the case of pre-established rights, it is not appropriate to crack nuts with a sledgehammer, but it is necessary to be precise and evidence-based.

5. Discussion and conclusion

Planning rural development involves having access to land. Local decision-making on land resources is an important driver for economic growth in rural areas. The emergence of the single market may, on the one hand, provides access to capital for rural areas, but may, on the other hand, result in an alienation of land from rural communities as land markets are part of this single market. The concept of land grabbing is used to describe this process of taken land from local control and it is a process that takes place within the EU context. Moreover, the Common Agricultural Policy (CAP) provides through it procedure of providing support to farmers that keep their land, without using it for agricultural production extra hindrances between land and local communities by providing incentives for absentee landowners to keep their land.

Member states and local authorities that aim to put limits on this process may face EU law as measures will limit freedoms of capital and freedom of establishment. Their concerns are backed by concerns by the European Parliament. The European Commission's interpretative communication shows that the situation calls for evidence-based measures as only measures that are helpful to achieve well-defined aims and that goes not beyond what is necessary to achieve these aims, are allowed. Here, the call for best practices is not a kind of harmless exercise to be used for glossy brochures and inspiring websites. It is a lot more than that. A best practice provides evidence of a practice that can achieve the aims. Practices that are less effective or that limit the EU freedoms of capital and establishment to a more restrictive way, go beyond what is necessary to achieve an aim and are so not allowed, as they are not proportional to the aim.

Although the shielding of CEE land markets has been presented as a protection of land markets from land grabbing, this has not worked so in many cases. Relating to land acquisitions, there is an extent of

'xenophobia' (Petrescu-Mag *et al.*, 2021) in the debate. However, the idea that land grabbing is 'foreign', and can be stopped by excluding foreigners from the land market is not adequate (Baker-Smith and Szocs, 2016; Petrescu and Petrescu-Mag, 2018; Luca, 2019; Korthals Altes, 2021). For example, in Romania, accumulation of land takes place by capturing lease rights from many small holders and the largest land grabbing organisations are domestic (Petrescu-Mag *et al.*, 2017). Having domestic ties provides relational capital in relation to authorities (Korthals Altes, 2021) and may also be helpful to persuade the 'rural population (i.e., the elderly and the vulnerable)' (Petrescu-Mag *et al.*, 2017, 180) to lease their land to the mass land holder. The regulations, furthermore, do not exclude that foreign investors provide access to capital (Korthals Altes, 2021). Here, the grants from the Common Agricultural Policy play a large role as they constitute 40% of farm income in Romania (Alexandri and Luca, 2019) and the decoupled payments 'amplified the "land grabbing" phenomenon, under various modalities, both by the Romanian and the foreign land owners.' (Alexandri and Luca, 2019, 15). As land concentration is very high, only 3% of the farms control about 60% of the CAP grants (Alexandri and Luca, 2019, 12).

In response to this concentration of funds, some Members States have introduced, 'capping', setting a ceiling to these payments, making it unattractive to extend the farm above a certain size. The result has been that farms have been split on paper, which does not change the practice (Szerletics, 2018). This effect is also expected by Appel *et al.* (2019). So, the EU Common agricultural policy has been a counterforce stimulating land assembly to the idea of protecting local land markets from local control by providing limits to non-local investment in the land.

A more overarching debate that can be raised is what counts as a 'rural community' as the 'preservation of rural communities' (Szilágyi, 2019, 635) is the overarching aim that is used to establish restrictive land laws. In EU policies, the LEADER approach has been developed to foster 'community-led' (EP and CEU, 2021a, Article 31) 'endogenous rural development' (EP and CEU, 2013; 2021b). This concept of endogenous development has been developed as an answer to critics that on the idea of modernisation of rural areas by exogenous intervention (Long and Van der Ploeg, 1994; Konečný, 2019). It does not exclude migration to rural areas. 'Within the context of rural endogenous development, migration is a pre-requisite.' (Stockdale, 2006, 364) The migrants have a different profile than the farm workers needed for exogenous development of large agricultural plants (Fonseca *et al.*, 2021). This issue is also studied by Doitchinova *et al.* (2018), comparing a flat area using external EU grants for mechanisation in very large farms with a mountainous area that developed more endogenously in Bulgaria. The last area is performing better in relation to lower unemployment, more employment in agriculture, a more diverse economy, a younger population and a higher level of entrepreneurship. So, it may be discussed whether areas that are not following the path towards scale enlargement, but follow endogenous development pathway, perform better and more resilient in rural development, than areas that modernize and supported by the EU instruments.

Locality is important for endogenous development, but 'One could even argue that more often than not, endogenous development is blocked not by global factors, but by locality itself' (Long and Van der Ploeg, 1994, 6). The EU LEADER policy provides the answer to this by Local Action Groups that must be 'inclusive', using 'non-discriminatory and transparent' procedures and criteria and must prevent the dominance of one interest group (EP and CEU, 2021a, article 33). So there is a clear difference between rural development as preserving what is there, closing it off from novel developments, and the idea of localised development including influx of rural newcomers, but without a top down external drive. In principle, this distinction made in a conceptual sense, can be used to formulate policies that restrict land markets. In practice formulating policies can be a lot more complex as, just as in the example of capping of EU funding mentioned above, practice may find its way around conceptual definitions.

The EU regulations on the single market do so, in principle, allow policies that limit the freedom to trade land to ensure local development. However, restrictions may not go beyond what is necessary to protect this and, in many contexts, local polices have not been developed. Many of the areas in the CEE that have been temporarily shielded from the single market have, including in the time shielded from the EU market, developed towards the most unequal land holding regions (Korthals Altes, 2021) in the EU to the expense

of local development. Currently, the way the common agricultural policy impacts the returns on extra land acquisitions seems to have a large negative impact on the operation of land markets as well.

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Academic references

[1] Alexandri, C. & Luca, L. (2019) Common Agricultural Policy Effects on Farms, *Agricultural Economics and Rural Development* 16(1), 3–15.

[2] Amblard, L. & Colin, J.-P. (2009). Reverse tenancy in Romania: Actors' rationales and equity outcomes, *Land Use Policy* 26(3), 828–836. DOI: 10.1016/j.landusepol.2008.10.008.

[3] Appel, F., Heinrich, F. & Balmann, A. (2019). Structural Implications of the CAP Reform after 2020– The German Case, 165 [unpublished presentation]. DOI: 10.22004/ag.econ.288285.

[4] Baker-Smith, K. & Szocs-Boruss, M. A. (2016). *What is Land Grabbing? A critical review of existing definitions.* Cluj: Eco Ruralis Retrieved from http://www.fao.org/family-farming/detail/en/c/1010775/ (last accessed 05/01/2022).

[5] Bański, J. (2017). The consequences of changes of ownership for agricultural land use in Central European countries following the collapse of the Eastern Bloc, *Land Use Policy* 66, 120–130. DOI: 10.1016/j.landusepol.2017.04.045.

[6] Bogaerts, T., Williamson, I. P. & Fendel, E. M. (2002). The role of land administration in the accession of Central European countries to the European Union, *Land Use Policy* 19(1), 29–46. DOI: 10.1016/S0264-8377(01)00041-2.

[7] Borras Jr, S. M., Franco, J. C., Gómez, S., Kay, C. & Spoor, M. (2012). Land grabbing in Latin America and the Caribbean, *Journal of Peasant Studies* 39(3–4), 845–872. DOI: 10.1080/03066150.2012.679931.

[8] Borras, S. M., Seufert, P., Backes, S., Fyfe, D., Herre, R., Michele, L. & Mills, E. (2016) *Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union*. Brussels: European Parliament. DOI: 10.2861/338205.

[9] Brady, M. V., Hristov, J., Sahrbacher, C., Söderberg, T. & Wilhelmsson, F. (2017). Is Passive Farming A Problem for Agriculture in the EU? *Journal of Agricultural Economics* 68(3), 632–650. DOI: 10.1111/1477-9552.12224.

[10] Ciaian, P., Kancs, d'A. & Espinosa, M. (2018). The Impact of the 2013 CAP Reform on the Decoupled Payments' Capitalisation into Land Values, *Journal of Agricultural Economics* 69(2), 306–337. DOI: 10.1111/1477-9552.12253.

[11] Coase, R. H. (1937). The Nature of the Firm, *Economica* 4(16), 386–405. DOI: 10.1111/j.1468-0335.1937.tb00002.x.

[12] Coase, R. H. (1960). The Problem of Social Cost, *Journal of Law and Economics* 3, 1–44.

[13] De Roest, K., Ferrari, P. & Knickel, K. (2018). Specialisation and economies of scale or diversification and economies of scope? Assessing different agricultural development pathways, *Journal of Rural Studies* 59, 222–231. DOI: 10.1016/j.jrurstud.2017.04.013.

[14] De Schutter, O. (2011). How not to think of land-grabbing: three critiques of large-scale investments in farmland, *The Journal of Peasant Studies* 38(2), 249–279. DOI: 10.1080/03066150.2011.559008.

[15] Doitchinova, J., Kanchev, I., Terziyska, R. & Todorova, K. (2018). Socio-economic and environmental parameters and results of rural development under the CAP: the case of Bulgaria In Wigier, M. & Kowalski, A., eds., *The Common Agricultural Policy of the European Union – the present and the future EU Member States point of view* (pp. 247–257). Warsaw: Institute of Agricultural and Food Economics.

[16] Filčák, R. (2012). Environmental justice and the roma settlements of Eastern Slovakia: Entitlements, land and the environmental risks. *Sociologický Časopis* 48(3), 537–562.

[17] Fonseca, M. L., Esteves, A. & Moreno, L. (2021). Migration and the reconfiguration of rural places: The accommodation of difference in Odemira, Portugal. *Population, Space and Place* 27(8), e2445. DOI: 10.1002/psp.2445.

[18] Furmankiewicz, M., Janc, K. & Macken-Walsh, Á. (2021). Implementation of the EU LEADER programme at member-state level: Written and unwritten rules of local project selection in rural Poland. *Journal of Rural Studies* 86, 357–365. DOI: 10.1016/j.jrurstud.2021.05.020.

[19] Godžirov, I. (2020). Restrictions on the acquisition of certain categories of real estate in relation to the basic market freedoms in the European Union. *EU and comparative law issues and challenges series (ECLIC)* 4, 844–868. DOI: 10.25234/eclic/11930.

[20] González, J. J. C., Herrero, J. A. R. & Aboitiz, R. J. (2021). Residential Aspirations and Perception of – 277. Rural Youth of the Opportunities Offered By their Environment: the Case of a Spanish Inland Rural Area, *European Countryside* 13(4), 785–805. DOI: 10.2478/euco-2021-0042.

[21] Grozdanova, D. & Georgiev, M. (2021). Balance Between the European Union and Bulgarian Legislation as Regards the Agricultural Land Versus Food Sovereignty, *XVII International May Conference on Strategic Management – IMCSM* 17(1), 267–277.

[22] Grubbström, A. & Eriksson, C. (2018). Retired Farmers and New Land Users: How Relations to Land and People Influence Farmers' Land Transfer Decisions, *Sociologia Ruralis* 58(4), 707–725. DOI: 10.1111/soru.12209.

[23] Grubbström, A. & Joosse, S. (2021). New Entrants in Agriculture – The Case of Young Immigrant Farmers in Sweden. *European Countryside* 13(1), 22–37. DOI: 10.2478/euco-2021-0002.

[24] Hartvigsen, M. (2014). Land reform and land fragmentation in Central and Eastern Europe, *Land Use Policy* 36, 330–341. DOI: 10.1016/j.landusepol.2013.08.016.

[25] Ingram, J. & Kirwan, J. (2011). Matching new entrants and retiring farmers through farm joint ventures: Insights from the Fresh Start Initiative in Cornwall, UK, *Land Use Policy* 28(4), 917–927. DOI: 10.1016/j.landusepol.2011.04.001.

[26] Kay, S., Peuch, J. & Franco, J. (2015). *Extent of Farmland Grabbing in the EU*. Brussels: European Parliament.

[27] Konečný, O. (2019). The Leader Approach Across The European Union: One Method of Rural Development, Many Forms of Implementation. *European Countryside* 11(1), 1–16. DOI: 10.2478/euco-2019-0001.

[28] Korthals Altes, W. K. (2015). The single European market and the demise of Flemish housing policy, *International Journal of Housing Policy* 15(2), 209–222. DOI: 10.1080/14616718.2015.1026140.

[29] Korthals Altes, W. K. (2016). Freedom of Establishment Versus Retail Planning: The European Case, *European Planning Studies* 24(1), 163–180. DOI: 10.1080/09654313.2015.1029441.

[30] Korthals Altes, W. K. (2021) *Technical Report on Quantitative Analysis of Land Holdings and Land Market Trends.* Delft: University of Technology.

[31] Leonard, B., Kinsella, A., O'Donoghue, C., Farrell, M. & Mahon, M. (2017). Policy drivers of farm succession and inheritance, *Land Use Policy* 61, 147–59. DOI: 10.1016/j.landusepol.2016.09.006.

[32] Li, Y., Westlund, H., Zheng, X. & Liu Y. (2016). Bottom-up initiatives and revival in the face of rural decline: Case studies from China and Sweden, *Journal of Rural Studies* 47, 506–513. DOI: 10.1016/j.jrurstud.2016.07.004.

[33] Long, A. & van der Ploeg, J. D. (1994). Endogenous Development: Practices and Perspectives. In Van der Ploeg, J. D. & Long, A., eds., *Born from Within: Practice and Perspectives of Endogenous Rural Development* (pp. 1–6). Assen: Van Gorcum.

[34] Luca, L. (2019). *Regulating the Land Market on the Basis of Incomplete Information: the case of Romania* [unpublished conference paper]. Retrieved from http://ageconsearch.umn.edu/record/288440/files/Luca-131.pdf. Last accessed 2019-04-25.

[35] Malthus, T. R. (1820). *Principles of Political Economy* London: W. Pickering.

[36] Marks-Bielska, R. (2013). Factors shaping the agricultural land market in Poland, *Land Use Policy* 30(1), 791–799. DOI: 10.1016/j.landusepol.2012.06.003.

[37] Marshall, A. (1890). *Principles of Economics.* London: Macmillan and Co.

[38] Monllor i Rico, N. & Fuller, A. M. (2016). Newcomers to farming: Towards a new rurality in Europe, *Documents d'Anàlisi Geogràfica* 62(3), 531–551. DOI: 10.5565/rev/dag.376.

[39] Øian, H. & Skogen, K. (2016). Property and Possession: Hunting Tourism and the Morality of Landownership in Rural Norway. *Society & Natural Resources* 29(1), 104–118. DOI: 10.1080/08941920.2015.1041658.

[40] Olagunju, K. O., Angioloni, S. and Wu, Z. (2022). How has the 2013 decoupled payment reform affected farmland rental values in Northern Ireland? *Land Use Policy* 112(105829). DOI: 10.1016/j.landusepol.2021.105829.

[41] Petrescu-Mag, R. M., Petrescu D. C. & Petrescu-Mag, I. V. (2017). Whereto land fragmentation–land grabbing in Romania? The place of negotiation in reaching win–win community-based solutions, *Land Use Policy* 64, 174–185. DOI: 10.1016/j.landusepol.2017.01.049.

[42] Petrescu-Mag, R. M., Petrescu, D. C., Todoran, S. C. & Petrescu-Mag, I. V. (2021). Us and them. Is the COVID-19 pandemic a driver for xenophobia in land transactions in Romania? *Land Use Policy* 103, 105284. DOI: 10.1016/j.landusepol.2021.105284.

[43] Petrescu, D. C. & Petrescu-Mag, R. M. (2018). Valuing land as a finite and precious resource: Citizen perceptions on foreign land property safety limits in Romania, *Calitatea,* 19(S1), 386–391.

[44] Powelson, J. P. (1987). Land tenure and land reform: past and present, *Land Use Policy* 4(2), 111–120. DOI: 10.1016/0264-8377(87)90045-7.

[45] Powelson, J. P. (1988). *The Story of Land: a World History of Land Tenure and Agrarian Reform*, Cambridge: Lincoln Institute of Land Policy.

[46] Ricardo, D. (1817). *On the Principles of Political Economy and Taxation.* London: John Murray.

[47] Sabates-Wheeler, R. (2002). Consolidation initiatives after land reform: Responses to multiple dimensions of land fragmentation in Eastern European agriculture. *Journal of International Development* 14(7), 1005–1018. DOI: 10.1002/jid.905.

[48] Sändig, J. (2021). Contesting large-scale land acquisitions in the Global South, *World Development* 146, 105581. DOI: 10.1016/j.worlddev.2021.105581.

[49] Sikorska, A. (2014). Land transfers and agrarian changes in individual farming, *Problems of Agricultural Economics / Zagadnenia Ekonomiki Rolnej* 341, 122–134, DOI: 10.22004/ag.econ.235394.

[50] Sklenicka, P., Janovska, V., Salek, M., Vlasak, J. & Molnarova, K. (2014). The Farmland Rental Paradox: Extreme land ownership fragmentation as a new form of land degradation, *Land Use Policy* 38, 587–593. DOI: 10.1016/j.landusepol.2014.01.006.

[51] Sklenicka, P., Zouhar, J., Trpáková, I. & Vlasák, J. (2017) Trends in land ownership fragmentation during the last 230 years in Czechia, and a projection of future developments, *Land Use Policy* 67, 640–651. DOI: 10.1016/j.landusepol.2017.06.030.

[52] Stockdale, A. (2006). Migration: Pre-requisite for rural economic regeneration? *Journal of Rural Studies* 22(3), 354–366. DOI: 10.1016/j.jrurstud.2005.11.001.

[53] Szerletics, Á. (2018). Degressivity, capping and European farm structure: New evidence from Hungary, *Studies in Agricultural Economics* 120(2), 80–86. DOI: 10.7896/j.1811.

[54] Szilágyi, J. E. (2019). The changing concept of rural community and its importance in connection with the transfer of agricultural land. *Zbornik radova Pravnog fakulteta u Novom Sadu* 53(2), 619–630. DOI: 10.5937/zrpfns53-20715.

[55] Szocs, B. M. A., Miklos, A., Rodriguez, B. M. & Srovnalova, A. (2015). *Land Grabbing in Romania: Fact finding mission report*, Cluj-Napoca: Eco Ruralis.

[56] Tisenkopfs, T., Adamsone-Fiskovica, A., Kilis, E., Šūmane, S., Grivins, M., Pinto-Correia, T. & Bjørkhaug, H. (2020). Territorial fitting of small farms in Europe. *Global Food Security* 26, 100425, DOI: 10.1016/j.gfs.2020.100425.

[57] van Dijk, T. (2003a). *Dealing with Central European land fragmentation: A critical assessment on the use of Western European Instruments* [Doctoral thesis]. Delft: University of Technology.

[58] van Dijk, T. (2003b). Scenarios of Central European land fragmentation, *Land Use Policy* 20(2), 149–58. DOI: 10.1016/S0264-8377(02)00082-0.

[59] Wolford, W., Borras, S. M., Hall, R., Scoones, I. & White, B. (2013). Governing Global Land Deals: The Role of the State in the Rush for Land. *Development and Change* 44(2), 189–210. DOI: 10.1111/dech.12017.

[60] Zondag, M.-J., Koppert, S., de Lauwere, C., Sloot, P. & Pauer, A. (2015). *Needs of young farmers; Report I of the Pilot project: Exchange programmes for young farmers*. Brussels: European Commission.

Other sources

[61] Boekhorst, L. (2018). *Mogelijkheden en kansen in Roemenië*, De boer op advies. https://deboeropadvies.com/akkerbouw-bodem-en-nutrienten-missie-roemenie-2018/ (date accessed 05/01/2022).

[62] EC (2008). *Review of the transitional measures for the acquisition of agricultural real estate set out in the 2003 Accession Treaty*, European Commission, Brussels. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008DC0461 (date accessed 07/01/2022).

[63] EC (2010). *Review of the transitional measures regarding the acquisition of agricultural real estate foreseen in the Accession Treaty 2005*, European Commission, Brussels. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52010DC0734 (date accessed 07/01/2022).

[64] EC (2015a). *Financial Services: Commission opens infringement procedures against Bulgaria, Hungary, Lithuania and Slovakia on investor restrictions for agricultural land*, European Commission, Brussels. http://europa.eu/rapid/press-release_IP-15-4673_en.htm (date accessed 07/01/2022).

[65] EC (2015b). *Financial Services: European Commission opens an infringement procedure against LATVIA on investor restrictions for agricultural land*, European Commission, Brussels. http://europa.eu/rapid/press-release_IP-15-4877_en.htm (date accessed 07/01/2022).

[66] EC (2016). *Financial services: Commission requests Bulgaria, Hungary, Latvia, Lithuania and Slovakia to comply with EU rules on the acquisition of agricultural land*, European Commission, Brussels. http://europa.eu/rapid/press-release_IP-16-1827_en.pdf (date accessed 07/01/2022).

[67] EC (2017a). Commission Interpretative Communication on the Acquisition of Farmland and European Union Law, *Official Journal of the European Union* 60(C350), 5–20.

[68] EC (2017b). *Review of the transitional measures for the acquisition of agricultural real estate set out in the 2011 Treaty on the accession of Croatia to the EU*, European Commission, Brussels. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52017DC0217 (date accessed 29/10/2020).

[69] EC (2018). *Direct payments*, DG Agriculture and Rural Development, Unit Farm Economics, Brussels. https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/direct-payments_en.pdf (date accessed 07/01/2022).

[70] ECJ (2003). Judgment of the Court, Ospelt (C-452/01), European Court of Justice, 23/09/2003. http://curia.europa.eu/juris/liste.jsf?language=en&num=452/01# (date accessed 07/01/2022).

[71] ECJ (2010). Judgment of the Court in Holland Malt vs European Commission (C464/09P), European Court of Justice, 02/12/2010. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62009CJ0464 (date accessed 07/01/2022).

[72] ECJ (2013). Preliminary ruling in the joined cases of Eric Libert et al. v Gouvernement flamand and All Projects & Developments NV and Others v Vlaamse Regering, European Court of Justice, C197/11 and C203/11, 08/05/2013. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62011CJ0197 (date accessed 29/10/2020).

[73] ECJ (2014). Judgement of the General Court in Beco vs European Commission (T81/12), European Court of Justice, 12/02/2014. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62012TJ0081 (date accessed 07/01/2022).

[74] ECJ (2019.) Judgement of the Court (Grand Chamber) in Case C-235/17, Actionunder Article 258 TFEU for failure to fulfil obligations, brought on 5 May 2017, European Commission v Hungary, European Court of Justice, 21/05/2019. https://curia.europa.eu/juris/document/document.jsf;jsessionid=3FC09C92AEA372B3E3D0A1C0D2D237C3?text=&docid=214283&pageIndex=0&doclang=EN (date accessed 07/01/2022).

[75] Engwerda, J. (2017). *Bedrijf opzetten in Roemenië vergt veel geduld [Establishing an enterprise in Romania urges a lot of patience]* De Boerderij. https://www.boerderij.nl/Akkerbouw/Achtergrond/2017/5/Bedrijf-opzetten-in-Roemenie-vergt-veel-geduld-129512E/ (date accessed 07/01/2022).

[76] EP (2017). *European Parliament resolution of 27 April 2017 on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers*, Strasbourg. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0197+0+DOC+PDF+V0//EN (date accessed 07/01/2022).

[77] EP and CEU (2013). *Regulation (eu) no 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005*, European Parliament, Council of the European Union. https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32013R1305 (date accessed 06/01/2022).

[78] EP and CEU (2021a). Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, *Official Journal of the European Union* 64(L231), 159–706.

[79] EP and CEU (2021b). Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development

(EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, *Official Journal of the European Union* 64(L435), 1–186.

[80] EUROSTAT (2021). *Farm indicators by agricultural area, type of farm, standard output, sex and age of the manager and NUTS 2 regions [ef_m_farmang]*. https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ef_m_farmang&lang=en (date accessed 15/07/2021).

[81] FADN (2022). *FADN Public Database*, European Commission, Brussels. https://ec.europa.eu/agriculture/rica/database/database_en.cfm (date accessed 02/05/2022).

[82] FAO (2016). *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, Food and Agriculture Organization of the United Nations, Rome. http://www.fao.org/docrep/016/i2801e/i2801e.pdf (date accessed 07/01/2022).

[83] Frisian Investors (2018). *Frisian Investors Inc.* http://www.frisianinvestors.nl/english.html (date accessed 29/10/2020).

[84] LTO Noord (2018). *Missie Roemenië: akkerbouw, bodem en nutriënten [Mission Romania: arable farming, soil and nutrients]*. https://www.ltonoord.nl/thema/verduurzaming/mest-en-mineralen/nieuws/2018/04/04/missie-roemenie-akkerbouw-bodem-en-nutrienten (date accessed 29/10/2020).

[85] Növekedés. Hu (2022). *Land dispute: Hungary restores abolished usufruct rights of EU citizens*. https://novekedes.hu/english/land-dispute-hungary-restores-abolished-usufruct-rights-of-eu-citizens (date accessed 07/01/2022).

[86] Suárez, S. M. (2015). *The right to land and other natural resources in the United Nations declaration on the rights of peasants and other people working in rural areas.*, FIAN International, Brussels/Heidelberg. http://www.fian.be/IMG/pdf/droit_a_la_terre_uk.pdf (date accessed 09/01/2022).

[87] UNHRC (2018). *Report of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas*, Unitede Nations Human Rights Council, Geneva. https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGPleasants/Session5/DraftReportWGPeasantsSession5.doc (date accessed 07/01/2022).

[88] van der Woude, C. (2017). *Prijs grondhuur Nederland is in Roemenië eigendom* Boerenbusiness. http://www.boerenbusiness.nl/ondernemen/grond/artikel/10873135/prijs-grondhuur-ne (date accessed 07/01/2022).