



DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
STRUCTURAL AND COHESION POLICIES **B**

Agriculture and Rural Development

Culture and Education

Fisheries

Regional Development

Transport and Tourism

EXTENT OF FARMLAND GRABBING IN THE EU

STUDY

EN

2015





DIRECTORATE-GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

AGRICULTURE AND RURAL DEVELOPMENT

EXTENT OF FARMLAND GRABBING IN THE EU

STUDY

This document was requested by the European Parliament's Committee on Agriculture and Rural Development.

AUTHORS

Transnational Institute: Sylvia Kay, Jonathan Peuch, Jennifer Franco.

RESPONSIBLE ADMINISTRATOR

Albert MASSOT
Policy Department B: Structural and Cohesion Policies
European Parliament
B-1047 Brussels
E-mail: poldep-cohesion@europarl.europa.eu

EDITORIAL ASSISTANCE

Catherine Morvan

LINGUISTIC VERSIONS

Original: EN

ABOUT THE PUBLISHER

To contact the Policy Department or to subscribe to its monthly newsletter please write to: poldep-cohesion@europarl.europa.eu

Manuscript completed in May 2015.
Brussels, © European Union, 2015.

This document is available on the Internet at:
<http://www.europarl.europa.eu/studies>

DISCLAIMER

The opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

Reproduction and translation for non-commercial purposes are authorized, provided the source is acknowledged and the publisher is given prior notice and sent a copy.



DIRECTORATE-GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

AGRICULTURE AND RURAL DEVELOPMENT

EXTENT OF FARMLAND GRABBING IN THE EU

STUDY

Abstract

This study looks at the rise of large-scale land deals, 'land grabbing', in the EU. It finds significant evidence that farmland grabbing is underway in the EU today. It discusses a number of the drivers of farmland grabbing in the EU and examines the impacts of farmland grabbing for European food security and food sovereignty, rural employment and vitality, and environmental sustainability. It argues that farmland grabbing, especially when connected to other burning European land issues, calls for a reform of European land governance.

CONTENTS

ABBREVIATIONS	5
LIST OF TABLES	7
LIST OF FIGURES	7
LIST OF BOXES	9
EXECUTIVE SUMMARY	11
INTRODUCTION	15
1. DATA ON THE EXTENT OF FARMLAND GRABBING IN THE EU	17
1.1. Quantitative assessment	17
1.2. Geographical distribution	20
1.3. Actors	22
1.4. From farmland concentration to farmland grabbing?	24
1.5. Preliminary conclusions regarding farmland grabbing in the EU	25
2. DRIVERS OF FARMLAND GRABBING AND FARMLAND CONCENTRATION IN THE EU	27
2.1. Differential land prices, land speculation, and land ‘artificialisation’	27
2.2. Processes of land privatisation and land consolidation	29
2.3. A variety of other EU agricultural, food, and energy policies	30
2.4. EU trade, financial and investment policies	36
3. IMPACTS OF FARMLAND GRABBING IN THE EU	39
3.1. The marginalisation of family farming and the problem of ‘entry denial’	39
3.2. The rise of large, corporate agricultural enterprises	41
3.3. Threats to European food security, food sovereignty and local food cultures	43
3.4. Rural unemployment, outmigration, and decline	44
3.5. Land degradation	46
4. POLICY RECOMMENDATIONS	49
4.1. Recommendation on the CAP	49
4.2. Recommendation on the EU Environmental Framework	54
4.3. Recommendation on Territorial Policy	55
4.4. Recommendation on the Internal Market	56
4.5. An EU land framework without any EU land policy?	60
4.6. Conclusion: For the implementation of the Tenure Guidelines in Europe	62
REFERENCES	67

ABBREVIATIONS

BPS	Basic Payment Scheme
CAP	Common Agricultural Policy
CJ	Court of Justice (of the European Union)
CMO	Common market organisation
DP	Direct Payment
EC	European Commission
ECVC	European Coordination Via Campesina
EEC	European Economic Community
EESC	European Economic and Social Committee
EP	European Parliament
EU	European Union
EUROSTAT	Statistical Office of the European Union
FADN	Farm Accountancy Data Network
FAO	Food and Agriculture Organisation of the United Nations
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
Ha	Hectare
HOTL	Hands Off the Land Network
IACS	Integrated Administration and Control System

IAS Romanian State Farms

IFPRI International Food Policy Research Institute

ILC International Land Coalition

MS Member States

NAMA National Asset Management Agency

NGO Non-Governmental Organisation

NMS New Member States

OMS Old Member States

SAFER Sociétés d'Aménagement Foncier et d'Etablissement Rural

SAPS Single Area Payment Scheme

SPS Single Payment Scheme

TEU Treaty on the European Union

TFEU Treaty on the Functioning of the European Union

Tenure Voluntary Guidelines on the Responsible Governance of
Guidelines Tenure of Land, Fisheries and Forests in the Context of
or TGS National Food Security

UAA Utilised Agricultural Area

WTO World Trade Organisation

LIST OF TABLES

TABLE 1.		
Land Matrix reported deals in EU Member States		18
TABLE 2.		
The extent of farmland concentration in Europe, 2010		24
TABLE 3.		
Distribution of CAP Direct Payments in 2013, for selected MS		32
TABLE 4.		
The decline of small farms in Europe, 1990 - 2010		40
TABLE 5.		
Restrictions of the principle of free movement of capital		58

LIST OF FIGURES

Figure 1.		
FDI in the agricultural sector (stock, €/capita) in selected EU Member States, 2003 and 2008		21
Figure 2.		
Nominal land sales prices in Europe in euro/ha, 2005		28
Figure 3.		
Variation between 2003-2005 and 2005-2010, in % of farm size class		33
Figure 4.		
Combined market share of the five largest retailer chains (2004-2007)		35
Figure 5.		
Composition of liabilities per farm by Member State in 2007		42
Figure 6.		
The 2013 CAP toolbox, options under the First Pillar		51
Figure 7.		
Total regulatory indicator (TRI) and its components		59

LIST OF BOXES

BOX 1. 'Pocket contracts' in Hungary	16
BOX 2. 'White spots' in Bulgaria	27
BOX 3. Barriers to prospective farmers in France	40
BOX 4. The impact of rural flight in Scotland	46

EXECUTIVE SUMMARY

This study examines the issue of farmland grabbing in the EU.

Europe is largely believed to be situated outside of the “global land grab”, the popular term to describe the rising global interest in farmland and the increase in large-scale land deals world-wide. This study counters this suggestion by showing that there is significant, albeit partial, evidence that farmland grabbing is underway in the EU today, as measured by the degree of foreign ownership of land, the capturing of control over extended tracts of land, and the irregularities that have accompanied various land transactions. The scale and scope of farmland grabbing in the EU is however limited when compared to countries in Africa, Asia, Latin America and former Soviet Eurasia, with preliminary evidence indicating that farmland grabbing is concentrated in particular in Eastern European Member States.

Farmland grabbing in the EU involves a heterogeneous set of actors including foreign and domestic, state and non-state, natural and legal persons. In addition to the establishment of large, corporate agricultural enterprises in Europe with the involvement of capital from all over the world, the rush for land has seen a new class of financial investor, not traditionally involved in the agricultural sector and made up of banking groups, investment funds, individual traders, and private equity companies, involved in farmland acquisition in the EU. Farmland grabbing in Europe also involves a new set of “land deal brokers” made of speculators and scammers who mediate corporate and state interests in land

These diverse set of actors reflect the multiple drivers of farmland grabbing in the EU including: differential land prices throughout the EU which have encouraged speculation and processes of ‘land artificialisation’; the unintended consequences of land reforms, land privatisation and land consolidation programmes in Eastern European Member States; the link between control over land and access to payments under the Common Agricultural Policy (CAP); and a variety of other EU policies linked to food, energy, trade, finance and investment.

The study argues that the impacts of farmland grabbing, which remains a limited phenomenon in Europe, must be placed within the context of broader structural changes within the EU agriculture. Against the backdrop of dramatic levels of land concentration and the rapid exit of Europe’s small farms, farmland grabbing, through its control, privatisation and/or dispossession of natural resources, has become an active factor in the further weakening of the socio-economic and environmental vitality of the rural sector. It is leading to the further erosion of Europe’s model of family farming based on a sustainable and multifunctional form of agriculture and blocking the entry into agriculture of young and aspiring farmers. This has real implications for European food security, employment, welfare, and biodiversity as with the demise and marginalisation of small-scale farming in Europe, the multiple benefits of this type of farming system and way of life are also eroded.

It is in this sense that the study draws broader connections between the ongoing but limited process of farmland grabbing in the EU and other burning land issues in Europe today. It makes a strong case that the ongoing (generic) trend of farmland concentration in Europe is just as problematic and deserving of policy attention as farmland grabbing. Not only does the highly skewed distribution of land in Europe conflict with the EU’s structural goal of dispersed land ownership, it has the danger of introducing profound disequilibria in European society as a whole. This study therefore challenges the notion that the ‘land

question' in Europe is closed. On the contrary, we have a pressing land problem in Europe concerning the access to, control over, and use of land.

With this background in mind, the study offers the following specific recommendations addressed to EU policy makers for regulating farmland grabbing in the EU. These are linked to the four horizontal frameworks (Internal Market, Agriculture, Environment, and Territorial Cohesion) upon which regulation at EU level is possible:

1. Internal market:

- We recommend that the EU should allow Member States greater freedom to regulate the sale and lease of farmland within their territory, and call upon the European Court of Justice to show greater flexibility in its interpretation of the principle of the free movement of capital. A land market based only on the four freedoms (free movement of goods, persons, services and capital) is not sufficient to deal with the risk of discrimination and marginalisation related to sensitive issues surrounding the access to, control over, and use of farmland. Justifiable restrictions to the principle of the free movement of capital, in line with sound political objectives that are in the public interest, should be deepened and enlarged to allow Member States greater regulatory control.
- There are a number of policy options that Member States may consider in this respect including setting upper limits for the acquisition of agricultural land and to create a system of pre-emptive rights to help those whose landed property is below this upper limit. Member States should also support the use of land sharing arrangements and land banks which support access to land for small, young, and aspiring farmers.
- To facilitate Member States in regulating farmland within their territory, we recommend the development at EU wide level of new data collecting instruments on patterns of land tenure in Europe. The creation of a European Observatory, as proposed by the Peasant's Trade Union amongst others, that would document shifts in land ownership and include important economic, social and environmental criteria could be an important step towards developing a truly pan-European and socially relevant database on the state of the land in Europe today.

2. Adjustments to the 2013 CAP toolbox

- To break the link between the concentration of land and the concentration of subsidies, Member States should implement adjustments to the 2013 CAP toolbox which aim at empowering small farmers and 'de-concentrating' the land market in order to curtail farmland grabbing. To do this, we recommend the European Commission and Member States to:
 - set the rate of internal convergence of payments to 100%
 - adopt the redistributive payment as soon as possible and with the highest share of Pillar 1
 - capping the basic payment above EUR 150,000 by applying a 100% reduction in payments and consider the possibility of setting up a lower capping at EUR 100,000

-
- make use of the young farmer scheme to the fullest extent possible, that is, using the 2% of the national envelope for any new exploitation regardless of its size
 - make use of the small farmer scheme at its maximum allowable level of €1,250 and consider raising the maximum to more fully meet the needs of Europe's small farmers
 - monitor the application of the CAP's new greening policies
 - use coupled payments to strengthen sectors in difficulty
 - adopt a definition of an active farmer which is clearly anchored in the notion of work on the farm. The current exemption threshold of EUR 5,000 must be revised down as it excludes many of the smallest producers, particular in the NMS

3. Environment

- We recommend the adoption of environmental regulation at EU level to tackle the effects of land degradation arising from farmland grabbing based on a model of industrial agriculture. From this perspective, we encourage the further development of the Land as a Resource process.

4. Territorial cohesion

- We recommend that the Territorial Policy of the European Union should take into account the diversity and the richness of the rural areas and integrate marginal rural areas into broader development strategies that strive towards a balanced territorial development, both between the economic, social, environmental and cultural functions of a territory and between urban and rural spaces.

5. Implementation of the Tenure Guidelines in the EU

- We recommend adopting a clear political orientation at the EU level on land through the crafting of a legal instrument. This could take the form of an EC Recommendation on Land, to be implemented through a series of EU Directives based on the four horizontal frameworks (Internal Market, Agriculture, Environment and Territorial Cohesion) which would aim at a comprehensive, holistic and human rights based approach to land. This would set out a strong and ambitious vision for the governance of (farm)land in the EU while offering Member States sufficient room for manoeuvre and flexibility in interpretation.
- We recommend using the Tenure Guidelines for improving land governance in the European Union and informing the development of an EC Recommendation on Land. Implementation of the Tenure Guidelines must take into account the competences of the EU and of the Member States.

INTRODUCTION

While much attention has focused on the rush for land in the global South, far less attention has been paid to land issues in the high-income countries of the North. Europe, it is widely held, is situated outside of the “global land grab”: the term popularised by NGOs, activists, the media, and those most affected to describe the surge in large-scale land deals around the world. To the extent that the role of Europe in the global land grab is addressed, it is through the involvement of European investors and policy drivers in land deals in the global South.¹

This study challenges the premise that land grabbing is the exclusive concern of EU external policy. It argues that land grabbing is not confined to “spaces of poverty” in low and middle-income countries but is occurring also within “elite spaces”, including in Europe’s homeland (Van der Ploeg, J., et al., forthcoming). Land grabbing from this perspective is a global phenomenon which cuts across hemispheric and developmental divides and, while taking on different forms, is unified through the common dynamics of capital accumulation that underpin it.

It is important here to be clear with how land grabbing is approached in this study. As others have noted, land grabbing is a contested term (Cotula, L., 2014). While there have been attempts to pin the term down, including through the use of legal constructs, there is no authoritative view as to how the term land grabbing is interpreted. The use of the term land grabbing in this study does not therefore necessarily imply that a transaction is illegal nor, depending on one’s point of view, that it is bad on all fronts. Rather this study approaches the issue of land grabbing from a political economy and human rights based perspective which sees land grabbing first and foremost as the capturing of the decision making power over how land is to be used, by whom, for how long, and for what purposes. From this starting point, land grabbing, in addition to the procedural aspects of a land deal, is also about the substantive dimensions and the implications a land deal has for democratic land control and access to land for the most vulnerable and marginalised.

Following on from this approach, a few remaining points regarding the understanding of land grabbing in the European context are in order. As the proceeding chapters of this study will argue, land grabbing in Europe is not just about the routine functioning of land markets; it also involves the operation of “extra-economic” forces which allow land to be captured and concentrated in ever fewer hands (Van der Ploeg, J., et al., forthcoming). With this capturing of control over extended tracts of land, land grabbing implies a drastic re-ordering of land use and attendant dynamics of social and ecological relations. As Borras, S. et al. (2013: 20) explain:

‘The shift towards new forms of control implies a far-reaching re-ordering of agricultural production. Land grabbing does not mean that agricultural production is simply continued, albeit under new ownership and management patterns. On the contrary, both the bio-material reality and the socio-institutional contours of agricultural production are deeply affected’.

¹ See for example the study by Cotula, L. (2014) for the European Parliament which addresses the human rights impacts of land grabbing in low and middle-income countries and the role of the EU.

From a European perspective then, land grabbing is about the construction of landholdings that represent a deep rupture with family farming and the scale of farming that has typified European agriculture so far.

This also means that farmland grabbing in the EU is intimately connected to other burning land issues in Europe today, including dramatic processes of farmland concentration and the disappearance of huge numbers of small farmers from agriculture each year. Although under threat, it should be remembered that the European model of farming is still one which is based on small, family farming: 84% of farms in the EU rely on family labour for their operations; 69% of all farms in the EU-27 work less than 5 ha of agricultural land, while small farms of less than 2 ha compromised nearly half (49%) of all agricultural holdings in the EU in 2012 (EC, 2013a).

With this in mind, the structure of the study is as follows:

Chapter 1 presents some of the key quantitative and qualitative data on the extent of farmland grabbing in the EU today. It offers some preliminary conclusions on the scale, geographical distribution, and nature of farmland grabbing in the EU Member States.

Chapter 2 discusses the drivers of farmland grabbing and farmland concentration in the EU, including EU and Member States' land, agricultural, food, and bio-energy policies.

Chapter 3 analyses the socio-economic and environmental impacts of farmland grabbing in terms of the decline of small farms in the EU and the barriers to entry for young and aspiring farmers; the emergence of large, corporate agricultural enterprises; threats to European food security and food sovereignty; rural unemployment, outmigration, and economic decline; and land degradation and other environmental concerns.

Chapter 4 offers a series of recommendations addressed to EU policymakers for stopping farmland grabbing and reducing dramatic processes of farmland concentration in the EU. These recommendations are linked to EU frameworks on agriculture (the Common Agricultural Policy), the environment (Land as a Natural Resource), the international market (the principle of the free movement of capital), and territorial cohesion (Territorial Agenda 2010). It ends with a discussion as to how the broader European approach to land governance can be reformed through the implementation of the FAO Tenure Guidelines in Europe.

1. DATA ON THE EXTENT OF FARMLAND GRABBING IN THE EU

KEY FINDINGS

- Farmland grabbing is a limited but creeping phenomenon in the EU.
- The geographical distribution of farmland grabbing in the EU is uneven and is particularly concentrated in Eastern European Member States.
- The lack of transparency around large-scale land deals in the EU implies that farmland grabbing operates in part through ‘extra-economic’ forces.
- Farmland grabbing in the EU involves a huge diversity of actors, including a new asset class made up of large banking groups, pension, and insurance funds, who are controlling an ever-increasing share of European farmland.
- Farmland grabbing in the EU interacts with longer-term processes of land concentration which is a matter of high policy and social concern.

This chapter provides an overview of the extent of farmland grabbing and farmland concentration in the EU. First, it provides a quantitative assessment, using the latest available statistical data, of the extent of farmland grabbing in the EU. The focus is on providing a pan-European overview of farmland grabbing and farmland concentration, but with selected highlights from particular countries. Second, it looks at the geographical distribution among the EU Member States of these processes. Third, it identifies some of the main actors involved, both in terms of their country of origin and the nature of their activities/investment. It ends with some preliminary conclusions regarding the extent and nature of farmland grabbing in the EU.

A short methodological note is in order before proceeding. As previous studies (Cotula, L., 2014) on land grabbing for the European Parliament have noted, data on large-scale land deals is notoriously hard to come by. The lack of transparency around land deals, corruption, contractual clauses to safeguarded commercial confidentiality, the use of (unverified) media reports, the fluid nature of many land deals and the scaling back or collapse of many projects, the serious methodological challenges of comparing different data sets, and broader and longer term questions concerning the politics of evidence gathering, all conspire to make it virtually impossible to rely on accurate estimates. The quantitative data presented in this chapter should therefore be treated only as preliminary findings that offer entry points into understanding the nature and scale of farmland grabbing in the EU today.

1.1. Quantitative assessment

There is a general paucity of quantitative data on farmland grabbing in the EU. Available international databases on large-scale land deals have thus far tended to exclude the EU, with both the overview of media reports on overseas land investments between 2006 and 2009 compiled by the International Food Policy Research Institute (IFPRI)² as

² Von Braun, J. and Meinzen-Dick, R. (2009), “‘Land Grabbing’ by Foreign Investors in Developing Countries: Risks and Opportunities”, IFPRI Policy Brief 13, Washington, D.C.: IFPRI.

well as the data set with over 400 global land grabs released by the NGO GRAIN³, not registering any land deals in EU Member States.

The Land Matrix database, a land monitoring initiative of the International Land Coalition (ILC), an international consortium working on land governance issues, has recorded large-scale land deals in the EU totalling 166,359 ha as of March 2015 (Table 1.).

Table 1. Land Matrix reported deals in EU Member States

Target Country	Investor Country	Intention	Contract Size (ha)
Lithuania	Germany	Food crops, Non-food agricultural commodities	4,650
Lithuania	Germany	Food crops, Non-food agricultural commodities	3,350
Bulgaria	Bulgaria, Austria, USA	Food crops, Other	21,400
Romania	Denmark	Food crops	7,536
Romania	Denmark	Food crops	1,105
Romania	Denmark	Conservation, Forest unspecified	7,261
Romania	Finland	For wood and fibre, Forest unspecified	12,000
Romania	Luxembourg	Agri, unspecified	10,060
Romania	France	Agri, unspecified, Food crops	3,008
Romania	France	Agri, unspecified, Food crops	5,500
Romania	Denmark	Food crops	3,000
Romania	Denmark	Food crops	1,200
Romania	Denmark	Agri,unspecified, Food crops	2,000
Romania	Portugal	Biofuels, Food crops	25,244
Romania	Denmark	Food crops, Livestock	5,674
Romania	Denmark	Agriunspecified, Food crops	6,000
Romania	Italy	Food crops, Livestock, Non-food agricultural commodities	12,000
Romania	Italy	Agri,unspecified, Food crops	4,850
Romania	Austria	Food crops, Livestock, Non-food agricultural commodities	21,000
Romania	Italy, Netherlands	Agri,unspecified, Food crops	4,821
Romania	Germany	Agri,unspecified, Food crops	4,700
TOTAL			166,359

Source: Land Matrix (2015).

Supplementary evidence from a number of other academic, institutional, and NGO sources provide additional insight into the degree of foreign ownership of farmland in various EU Member States⁴:

³ GRAIN (2012), 'GRAIN releases data set with over 400 land grabs', [online], <http://www.grain.org/article/entries/4479-grain-releases-data-set-with-over-400-global-land-grabs> [accessed 17 March, 2015].

⁴ Data in this section has been collected from Ciaian, P. et al. (2012a), EESC (2015), and various case studies included in the book "Land concentration, land grabbing and people's struggles in Europe", an action-research project launched by the European Coordination Via Campesina (ECVC) and the campaigning network Hands Off the Land (HOTL).

- In Romania, there is no official statistical information on the foreign ownership of agricultural land but according to data from various sources, up to 10% of agricultural land is now in the hands of investors from outside the EU, with a further 20-30% controlled by investors from the EU. For example, in the county Timis, it is estimated that approximately 150,000 ha of agricultural land - almost a third of the agricultural area in the county - is cultivated by Italian-owned companies. The largest part of the cultivated land is also owned by these foreign companies. The number of land transactions as well as the area sold has more than tripled in Romania between 2005 and 2009.
- In Bulgaria, there is similarly no official information on the degree of foreign ownership of agricultural land but based on anecdotal evidence collected from various sources, it can be deduced that there is substantial foreign ownership of agricultural real estate. For example, the Elana Agricultural Land Opportunity Fund, one of the largest non-banking financial groups, owned by QVT Fund LP (based in the Cayman Islands), Allianz Bulgaria (owned by the German Allianz Group), and Credit Suisse Securities (Europe) controlled no less than 29,320 ha of farmland in the country in early 2009. Meanwhile, the Ceres Agrigrowth Investment Fund, which includes Raiffeisen Centrobank AG amongst its partners, owned approximately 22,000 ha in 2008. Yet another large investment fund, the Winslow Group JSC, a Bulgarian–British partnership, invested in 4,000 ha of which 2,500 ha was owned in 2008.
- In Hungary, official databases would appear to indicate that farmland grabbing is a statistically insignificant phenomenon. Between 2005 and 2006, foreigners bought only 700 ha of agricultural land - less than 0.2% of the total turnover. This rises marginally when it comes to the buying of farmsteads: between 1% and 1.5% of the farmsteads that changed ownership were bought by foreigners. However, these official records do not take into account land acquired through the use of so-called ‘pocket contracts’ - a term used to describe a multitude of covert contracts that aim to circumvent legal restrictions on transacting land (Box 1). When these are taken into account, according to different sources, foreigners owned around 400,000 ha (about 6%) of agricultural land in 2008, rising to an estimated 1 million ha in 2013.

BOX 1. POCKET CONTRACTS IN HUNGARY

The terms ‘pocket contracts’ originally referred to land deals where the date of purchase remains unspecified and the contracts is kept ‘in the pocket’ until the moratorium on land sales is lifted. These contracts are not recorded in the land register so that, although the official record shows that a Hungarian citizen owns the land, in practice a foreign person owns the property. The term is now used to describe a multitude of contracts that aim to circumvent legal restrictions on transacting land, with one Hungarian County Agricultural Chamber identifying 16 different types of pocket contracts. An estimated 1 million ha of land has been obtained using pocket contracts by foreign persons or companies over the past two decades, including of Austrian, German, Dutch, Danish and British extraction. On the dubious premise that the contracts are legal, these entities have received an estimated HUF 300-500 million (approximately EUR 1.1 - 1.8 million) worth of national and EU agricultural subsidies since Hungary’s accession to the EU.

Sources: Ciaian, P. et al. (2012a) and Fidrich (2013).

- In Poland, official statistics would again appear to indicate that the issue of farmland grabbing is a relatively minor one. Between 1999 and 2005, foreigners bought around

1,400 ha of land - less than 1% of the total agricultural land. However, even though Poland's transitional EU accession rules on the liberalisation of its land market bar foreigners from buying land until May 2016, according to reports by local farmers, more than 200 000 ha of land in the province of West Pomerania has been bought by foreign companies of Dutch, Danish, Germany and British extraction. This has been done through the use of what are called substitute or 'dummy' buyers - Polish citizens, often small farmers, who meet the legal requirements for making a limited tender and who are hired by the foreign companies to buy land and who then transfer control of it to the latter. Additionally, according to similar reports, foreign companies are estimated to be leasing up to 200,000 ha in the province.

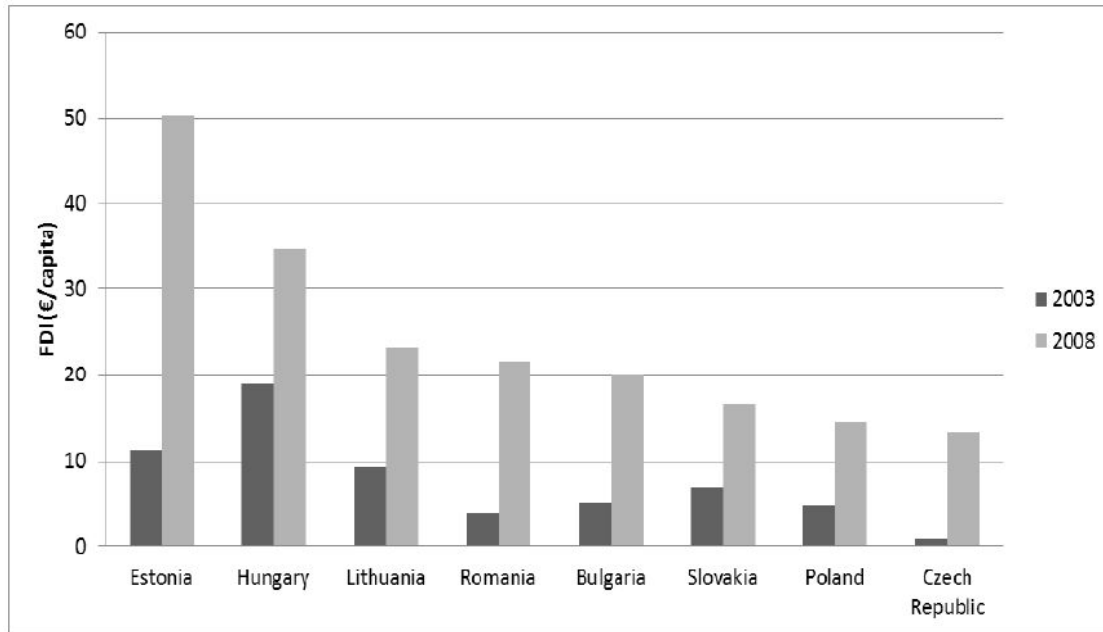
Furthermore, the following profile of foreign land ownership in selected Member States has been extracted from a study undertaken by Ciaian, P. et al. (2012a):

- In Slovakia, where foreigners are allowed to buy agricultural land by setting up a legal entity, foreigners own approximately 20,000 ha or 1% of the UAA.
- In the Czech Republic, according to a survey carried out by the Czech Union of Agricultural Businesses in 2006, foreigners owned 90,000 ha of agricultural land (or 2.1% of the total agricultural land).
- In Lithuania, experts estimate that in 2007, foreigners owned 12,000–15,000 ha of agricultural land (i.e. about 0.5% of agricultural land), with some 30 foreign legal persons owning 10,000-12,000 ha and around 20 natural persons owning 1,000–3,000 ha.
- In Latvia, 427 and 512 land sales transactions in 2005 and 2006 respectively involved a foreign party, according to information from the state land register. These figures correspond to approximately 2% of the sales transactions that took place in those years.

1.2. Geographical distribution

As section 1.1. has already suggested, land grabbing within the EU is concentrated in the Eastern European Member States, with initial findings suggesting that Romania, Bulgaria, Hungary and Poland are particular hotspots. Foreign direct investment in the agricultural sector in Eastern European Member States has increased rapidly over the past few years (Figure 1).

Figure 1. FDI in the agricultural sector (stock, €/capita) in selected EU Member States, 2003 and 2008⁵



Source: Ciaian, P., et al. (2012a), p.12.

The concentration of farmland grabbing in Eastern Europe is particularly alarming given the fact that in the accession treaties of all the new Member States of Eastern Europe, exemptions to the free movement of capital with respect to agricultural land were granted during their transitional periods. This means that strict rules - if not outright moratoriums - on the foreign ownership of agricultural land were instituted for a specified period of time. For some countries, these exemptions expired in 2011 or 2014 (Bulgaria, Romania, Hungary, Lithuania, Slovakia) while for others (Poland and Croatia), they are set to expire in 2016 (Wiedmann, T., 2014).

While farmland grabbing within the EU should be a primary concern for EU policymakers, large-scale land deals which take place outside of the EU are also of significance. Of particular relevance for this study are land deals 'around the EU' i.e. those which skirt the EU's borders as these may have significant implications for EU agriculture and farming populations (Van der Ploeg, J. et al., forthcoming).

For example, despite the Law on Agricultural Land prohibiting the sale of agricultural land to foreign entities in Serbia, foreign companies have been able to bypass this restriction by buying up local farms and agribusiness holdings, allowing them to register their firms as domestic enterprises. The result is that in recent years there has been a significant expansion of land under de facto foreign ownership, including 6,000 ha under the control of Croatian national, Ivica Todoric; 1,500 ha acquired by the Hungarian firm Hajdu Avis (later re-sold with a substantial profit); and 10,500 ha under management of the Irish fund Baltic Property Investments (Sre kovi , M., 2013). Similarly, the Ukraine has witnessed a huge

⁵ Note that as Ciaian, P., et al. (2012) point out, FDI flows in the agricultural sector (which are an imperfect proxy for foreign land ownership) are still very much limited compared to FDI in the food processing industry. This shows that upstream investments in the food chain are also relevant for an examination of land ownership and effective land control (see also Chapter 2.3.2.)

increase in foreign ownership of agricultural land with estimates that between 1.6 to 1.7 million ha (Endres, A., 2015) has been transferred to foreign companies from Denmark, Sweden, Luxembourg, France, Germany, Austria, Switzerland, Serbia, Russia, Saudi Arabia and the USA (Land Matrix, 2015).

According to the Land Matrix database, land deals amounting to 4.3 million ha have been reported taking place 'around the EU', including in Russia, the Ukraine, and countries along the Mediterranean rim. While these figures should be treated with caution, they do point to the possibility that farmland grabbing, while limited within the EU at the moment, could accelerate and 'creep' into other parts of Europe, with farmland grabbing at the EU's periphery conspiring with farmland grabbing in the European heartland (Van der Ploeg, J. et al., forthcoming).

1.3. Actors

It is difficult to generalise on the actors involved in farmland grabbing and the large-scale acquisition of farmland in the EU which is marked by a huge diversity of actors, both foreign and domestic, state and non-state, natural and legal persons. This reflects the broad range of purposes for which farmland in the EU is appropriated including inter alia agribusiness, energy, mining, tourism, real-estate, and speculation. Amidst this diversity, this section identifies a number of broad trends regarding the actors involved in farmland acquisition in the EU.

First, rising global interest in farmland and the general transition towards a more flexible and polycentric global food regime, has seen the establishment of large agroholdings in Europe with the involvement of capital from all over the world. The Bulgarian agricultural sector for example has received foreign direct investment from China, Kuwait, Qatar, Saudi Arabia, the United Arab Emirates and Israel in recent years (Medarov, G., 2013). Among the top 100 agricultural companies operating in Romania in 2011 are companies with ties to Lebanon, Italy, Lithuania, Denmark, the Netherlands, France, the USA, Great Britain, Portugal, Spain, and Austria⁶.

The size of some of these agroholdings is unprecedented and out of standard European proportions. The biggest farm in Romania for example, belonging to the Lebanese owned Maria Group, amounts to 65,000 ha. With its own port and slaughter house, it exports meat and cereals, largely to the Middle East and East Africa (Nurm, K., 2014). Similarly, Bardeau Holding, which controls 21,000 ha in Arad, Timis, Caras Severin, and Arges counties in Romania, has its own transport infrastructure and undertakes its own storage (including two cereal warehouses, with capacities of 20,000 tonnes and 12,000 tonnes respectively), processing, and marketing activities (Eco Ruralis, 2015a). It is linked to the Austrian Count von Bandeau, who is the fifth largest landowner and among the ten biggest farmers in Romania.

Second, as various drivers have brought farmland into stark relief as a commercial asset, a new category of investors not traditionally involved in the agricultural sector and made up of individual traders, investment funds, including some of Europe's largest pension and insurance funds, and private equity companies, has appeared. The emergence of Black Sea Agriculture, a private investment fund set up by a former Wall Street trader which controlled 113 ha of land in Bulgaria in 2011 is but one example

⁶ Eco Ruralis, personal communication.

(Medarov, G., 2013). Although the size of the investment is still relatively small compared to some of the large-scale land deals being closed in Europe today, the investment is significant as it is indicative of a new emerging trend, especially as the goal of the company is also to acquire much larger tracts of land along the Romanian and Bulgarian Black Sea coast in what is marketed as the 'Black Sea Farm Belt'.

Under the banner of "portfolio diversification", a number of European banking groups, pension and insurance funds, have set up specialised agricultural investment funds to spread their risk and profit from the soft commodities boom, particularly following the 2008 financial crisis. Many of these investments operate through national subsidiaries and involve buy-and-leaseback arrangements, often with limited time-horizons. The investments of the Rabo Farm Europe Fund, a €315 million institutional investment vehicle of the Dutch Rabobank Group established in 2008 is typical of this kind of investor. Operating through 14 nationally registered companies in Poland and 3 nationally registered companies in Romania, the Rabo Farm Europe Fund buys up farmland through national intermediaries and leases them to national agricultural enterprises and farmers⁷. Investors in the fund are promised an expected 8 to 9% annual return, betting on the consolidated land price increase. Other examples include the Italian insurance company Generali which controls 4,500 ha in Western Romania through a Romanian subsidiary (Eco Ruralis, 2015b), Germany's Allianz which holds a quarter of the shares in a fund which invests in Bulgarian agricultural land (Friends of the Earth Europe, 2012), and KTG Agrar, a sub-fund of the Belgian banking and insurance group KBC, which controls 30,000 ha in Eastern Germany and Lithuania, amongst many others (ibid.).

Third, the increase in large-scale land deals in Europe has given rise to a particular set of actors involved in facilitating these kinds of transactions. Borras et al. (2013) speak of the "land grab entrepreneurs": a rising new class of deal brokers, speculators and scammers who mediate corporate and state interests in land, sometimes producing unintended outcomes. An interesting case in this regard revolves around that of a Chinese agricultural firm, the Tianjin Farms Agribusiness Group Company, which in 2011 signed a lease agreement with a powerful investor in the village of Boynitsa in Bulgaria, to lease 2,000 ha to produce corn, with a plan to acquire 10,000 ha more (Medarov, G., 2013). Although the Bulgarian government supported the deal, neither the local community nor the municipal authorities were consulted. In November 2012, the Chinese company abruptly announced that it was terminating the contract and moving elsewhere in the region. While the exact reasons for the termination of the contract remain sketchy, interviews with villagers report that the local arendatori (a Bulgarian term for a set of elite actors that has emerged distinctly in the context of land grabbing) had scammed the company, transferring less land and of inferior quality than was promised.

The above example speaks to the role that domestic actors play in land grabbing, as well as the complicated role of the State as the key broker of these land deals. This is illustrated by the case of Hungary with the unlawful transfer of land and dispossession of previous owners through the use of 'pocket contracts' (see Box 1.). While the Hungarian State has taken action against these illicit contracts (for example by taking them up in the new Criminal Code of 2012), the government has also been implicated in various controversial land lease tenders in Fejer county and Southern Borsod amongst others (Fidrich, R., 2013). As Fidrich writes, "The role of the Hungarian State in this process [land grabbing] has been ambivalent. On the one hand, it has sought to regulate the worst

⁷ Eco Ruralis, personal communication.

excesses of these land grabs, criminalising various practices. On the other hand, a state-capital alliance is actively facilitating and profiting from these dubious land deals".⁸ The same holds true for the Romanian State Domains Agency, which has faced charges of professional negligence due to irregularities in the lease of state-owned land (Bodeanu, 2012).

1.4. From farmland concentration to farmland grabbing?

Farmland grabbing in the EU is occurring against the backdrop and interacting with longer-term processes of land concentration. Indeed, Europe is currently experiencing tremendous and rapid land concentration (Table 2.). In 2010, the top 3% of farms controlled half of the total UAA in the EU-27, while 80% of farms, all below 10 ha, controlled only 12% of the total UAA (EU 2012). According to the EUROSTAT (2011) definition of large farms, large farms make up only 0.6% of all European farms yet they control one-fifth of the total UAA in Europe - an area equivalent to the total land area of Germany. This puts the state of land inequality in the EU, with a Gini co-efficient of 0.82, on a par with or even above countries that are noted for their highly skewed land distribution patterns such as Brazil, Colombia and the Philippines.

Table 2. The extent of farmland concentration in Europe, 2010⁹.

MS	Agricultural holdings >100ha	Total holdings	% of holdings	UAA of agricultural holdings >100 ha (in ha)	MS total UAA	% of MS total UAA
EU-27	325,860	12,014,700	2.7	90,872,940	179,685,870	50.6
Austria	2,850	150,170	1.9	528,300	2,878,170	18.4
Belgium	2,260	42,850	5.3	334,160	1,358,020	24.6
Bulgaria	5,490	370,490	1.5	3,687,860	4,475,530	82.4
Cyprus	120	38,860	0.3	19,770	118,400	16.7
Czech Republic	4,420	22,580	19.6	3,085,160	3,483,490	88.6
Denmark	8,080	42,100	19.2	1,750,750	2,646,860	66.1
Estonia	1,720	19,610	8.8	688,710	940,930	73.2
Finland	3,820	63,870	6	563,590	2,290,980	24.6
France	94,250	516,100	18.3	16,453,960	27,837,290	59.1
Germany	33,620	299,130	11.2	9,196,880	16,704,040	55.1
Greece	1,540	723,060	0.2	1,950,180	5,177,510	37.7
Hungary	7,450	576,810	1.3	3,034,080	4,686,340	64.7
Ireland	4,720	139,890	3.4	1,150,010	4,991,350	23.0
Italy	15,490	1,620,880	1	3,370,460	12,856,050	26.2

⁸ Fidrich, R. (2013), 'The Return of the White Horse: Land Grabbing in Hungary', in Land Concentration, Land Grabbing and People's Struggles in Europe, edited by J. Franco and S. Borras, Amsterdam, Transnational Institute, p. 128.

⁹ A short explanatory note on how to read the table. The first three columns following the list of member states detail the percentage share of the total number of agricultural holdings in each MS held by the largest farms (those in the biggest UAA class of 100 ha or more). The following two columns after that give the combined UAA occupied by the large farms and the total UAA of each MS. By comparing the two percentage columns (the fourth and the final column) one can see what percentage of land is controlled by the largest farms. Thus, for example, in the case of Austria, only 1.9% of (large)farms control 18.4% of the total UAA in the country. Note that the true extent of farmland concentration is not entirely captured by this table as, while in 20 MS 'large farms' are all in the biggest UAA class of 100 ha or more, in a number of MS, the definition of what constitutes a large farm falls below this threshold.

Latvia	2,570	83,390	3.1	843,790	1,796,290	47.0
Lithuania	3,800	199,910	1.9	1,140,040	2,742,560	41.6
Luxembourg	440	2,200	20	66,030	131,110	50.4
Netherlands	2,210	72,320	3.1	343,090	1,872,350	18.3
Poland	9,650	1,506,620	0.6	3,120,900	14,447,290	21.6
Portugal	6,110	305,270	2	2,117,670	3,668,150	57.7
Romania	13,730	3,859,040	0.4	6,508,390	13,306,130	48.9
Slovenia	100	74,650	0.1	32,880	482,650	6.8
Slovakia	2,210	24,460	9	1,726,490	1,895,500	91.1
Spain	51,190	989,800	5.2	13,089,450	23,752,690	55.1
Sweden	7,930	71,090	11.2	1,589,000	3,066,320	51.8
United Kingdom	39,240	186,800	21.0	12,481,400	16,881,690	73.9

Source: Own elaboration based on EUROSTAT (ef_kvaareg; key farm variables: UAA and holdings; ef_oluaareg; number of farms by agricultural size of farm (UAA))

This process of land concentration and land inequality has particularly affected Europe's small farms (those with an average UAA of less than 10 ha). Between 2003 to 2010, the number of holdings of less than 10ha dropped by a quarter, while from 2007 to 2010 small farmers owning less than 10 ha lost control over 17% of their land, an area bigger than Switzerland. In contrast, the UAA occupied by large farms in the EU slightly increased (+4%) between 2003 to 2010. This shows a clear trends towards concentration of agricultural land in Europe, particularly given the fact that the total UAA has remained more or less stable in most Member States between 1990 to 2007 (although displaying a long-term decline). This means that the expansion of large farms in Europe has come at the expense of small farms.

There is thus a danger that farmland grabbing will lock forces with ongoing process of land concentration in the EU as small farmers are ceding or losing control of their land at an alarming rate. With land concentrated in ever fewer hands, democratic decision-making power over land is also eroded. This suggests that the ongoing (generic) trend of farmland concentration is just as problematic and deserving of policy attention as farmland grabbing - something that the excessive focus on the 'foreignisation' of land implied by land grabbing tends to miss (Van der Ploeg, J. et al., forthcoming).

1.5. Preliminary conclusions regarding farmland grabbing in the EU

As mentioned earlier, data on the extent of farmland grabbing in the EU must be treated as preliminary. However, the available evidence does provide us with some useful entry points for understanding the nature and extent of farmland grabbing in the EU:

First, there is significant evidence that farmland grabbing is underway in the EU today, as measured by the degree of foreign ownership of land, the capturing of control over extended tracts of land, and the irregularities that have accompanied various land transactions. The scale and scope of farmland grabbing in the EU is limited when compared to countries in Africa, Asia, Latin America and former Soviet Eurasia. However, data shows that large-scale land deals in the EU have increased in the past decade. Farmland grabbing in the EU is as such best described as a limited, but creeping phenomenon.

Second, the geographical distribution of farmland grabbing in the EU is uneven, with particular regions and countries more affected than others. Preliminary evidence indicates that farmland grabbing is concentrated in Eastern European Member States.

Third, the lack of transparency around land deals in the EU and the discrepancies between official records and local realities show that control over extended tracts of land does not simply occur through the routine functioning of land markets alone but implies an “extra-economic force” as well (ibid.). The term extra-economic force refers to special conditions offered by state-apparatuses (at national, regional and/or local level), good political connections, full support of governors, and to practices of “skirting the law”, such as “pocket contracts” in Hungary.

Fourth, there is an argument to be made that the size of the landholdings acquired in these new transactions - which can amount to sometimes thousands of hectares of land - represent a deep rupture with family farming and the associated farm sizes that have characterised European farming so far. Land grabbing in this sense is not just about the procedural nature of the land deal itself (legal or illegal, or in between), it also matters very much who the land is owned or controlled by and what the land is used for. From this perspective, the emergence of a new asset class, made up of banks, investment, and pension funds, and other financial actors controlling an ever-increasing share of European farmland is a cause for concern (see also Chapter 1.3.).

Fifth, the above indicative data on the degree of foreign ownership in various EU Member States is particularly alarming when set against the longer term trends towards land concentration and land inequality which have created structural biases against Europe’s small, young, and aspiring farmers.

2. DRIVERS OF FARMLAND GRABBING AND FARMLAND CONCENTRATION IN THE EU

KEY FINDINGS

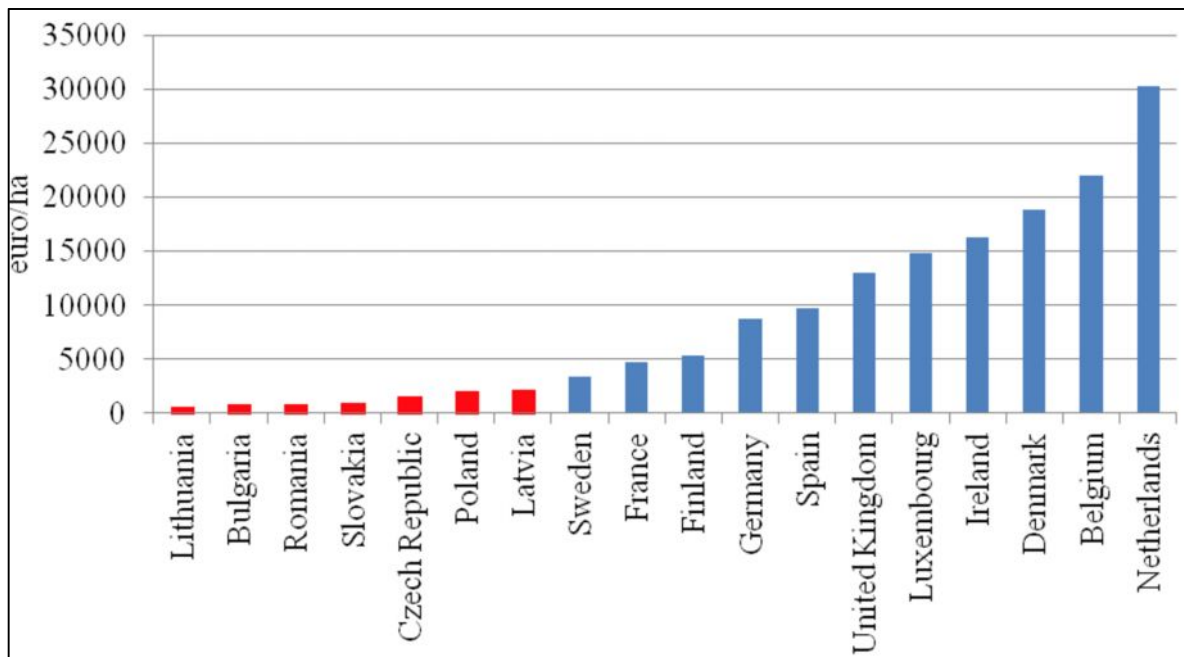
- The relatively low price of land in the new Eastern European Member States compared to the older EU Member States has been a major incentive for investors to acquire farmland in these countries and has encouraged processes of land speculation and land 'artificialisation'.
- Land reform processes in the former Socialist Member States led to the emergence of highly dualistic agrarian structures that have paved the way for farmland grabbing.
- Dramatic processes of land concentration within the EU have coincided with the concentration of the benefits of CAP subsidy in the hands of fewer and bigger land holdings.
- High and increasing levels of concentration in the EU food market allow for the abuse of buyer power, undercut farmers' revenues, and increase their vulnerability to processes of farmland grabbing and farmland concentration.
- EU bio-energy policy, in particular the 2009 Renewable Energy Directive, has encouraged new investors implicated in the rise of energy crops to acquire farmland and pushed up land prices.

The drivers of farmland grabbing and farmland concentration in the EU are diverse and based on a convergence of historical patterns and contemporary trends. This chapter will address each of these drivers in turn.

2.1. Differential land prices, land speculation, and land 'artificialisation'

The relatively low price of land in the new Eastern European Member States compared to the older EU Member States has been a major incentive for investors to acquire farmland in these countries. As Figure 2 shows, the variation in land prices between the different EU Member States, particular between the Eastern and Western Member States, is substantial. In 2009, for example, while the nominal agricultural land price in Poland stood at €1,000, this was five times higher in France, ten times higher in Spain, twenty-six times higher in Denmark, and forty-seven times higher in the Netherlands.

Figure 2. Nominal land sales prices in Europe in euro/ha, 2005



Source: CEPS, KU Leuven and JRC (2013).

It is not just in Eastern European Member States that farmland represents an attractive investment prospect. Throughout the EU, inflationary pressures are fuelling land speculation and the acquisition of farmland. In nearly all Member States for which data is available, with the exception of Poland and Germany, land sales prices increased between 2000 and 2009, with the sharpest rises experienced in Lithuania (+230%), Denmark (+151%), Romania (+150%), and Bulgaria (+116%).

This rapid inflation has been attributed to the rise of 'new investors' in farmland (Chapter 1.3.), some with little connection to agriculture or farming. In fact, it is often precisely in the conversion of farmland from agricultural to non-agricultural use that the largest returns can be made. This process has been termed by French agrarian and environmental activists as one of 'land artificialisation': the loss of prime agricultural land to urban sprawl, real estate interest, tourism enclaves, and other commercial undertakings (Borras, S. et al., 2013). In France, for example, more than 60,000 ha of mostly fertile farmland are lost every year due to land use conversion to non-agricultural uses. This is motivated in particular by the extraordinary re-sale value of converted farmland. It is not uncommon for instance for a €5,000 per hectare farmland to be sold for at least a hundred times more when converted to non-agricultural use (Ody, M., 2013). Similarly, the construction boom in Ireland led to land being re-zoned for large-scale housing projects, shopping centres, industrial estates and other commercial developments, especially around the outskirts of towns and cities. Land use planning was often chaotic. This created a huge incentive for the conversion of agricultural to non-agricultural land use. In 2006, 15.3 acres of agricultural zoned land was bought for €3 million to a local developer who planned to build 28 housing units (Anderson, F., 2013). The site is now worth approximately €290,000.

Land speculation and land artificialisation contribute to farmland concentration in the EU by raising the stakes and increasing the barriers for prospective farmers to take up farming, in effect constituting a form of 'entry denial' (see Chapter 3.1.).

2.2. Processes of land privatisation and land consolidation

In several Eastern European and former socialist EU Member States, post-Communist land privatisation and land restitution processes have not always produced optimal outcomes nor served the intended beneficiaries and have, in many instances, discriminated against small farmers.

For example, post-socialist land reforms in Bulgaria were defined by two interlinked processes: i) the dissolution of state-run, large-scale cooperatives, in particular the privatisation of their capital (e.g. machines, buildings and livestock), in what became known as the Liquidation; and ii) a programme of land restitution which attempted to return land back to the 'original' owners from before the collectivisation of agriculture in 1946. Both processes were problematic (Medarov, G., 2013). Liquidation was undertaken very quickly, being largely completed by the mid-1990s, and was marked by extreme corruption. The land restitution process meanwhile was mired in bureaucratic chaos as land was restituted on the basis of family lineage (the heirs of original owners) rather than to those actually cultivating the land. In effect, this meant that tiny plots of land¹⁰ were redistributed to people who either did not want it or who had little connection to farming. As Medarov writes, "The result was a two-fold shift in Bulgaria's agrarian structure that happened both too fast (Liquidation) and too slow (land restitution)"¹¹. It was to precipitate a period of rural economic decline and severe fragmentation of land ownership, which would later lead to (re)concentration through programmes of land consolidation.

Similarly, Hungarian agriculture during Soviet times was dominated by cooperatives and state-owned agricultural conglomerates. The collectivisation of Hungarian agriculture was a coercive state-led exercise in which farmers were forced to 'offer' their land to the new cooperatives. After the end of the Soviet Union their original land was restored to the cooperative members. This resulted in the creation of many small, non-competitive plots of land, many of which later became the target of various forms of land grabbing (Fidrich, R., 2013).

In Romania as well, the dismantling of former Agricultural Production Cooperatives (CAP) and State Farms (IAS), which accounted for 90% of the UAA in 1989, led to the polarisation of Romanian agriculture between small, family farmers and large-scale agro-industry (Bouniol, J., 2013). In the process of decollectivisation, many IAS and CAP were acquired by former regime officials who were able to use their connections to gain privileged access to land privatisation programmes.

The result of these processes of land privatisation in the former socialist Member States has been the emergence of dualistic agrarian structures in which land use is both highly concentrated and highly fragmented. This has paved the way for farmland grabbing as a new class of private landowners with significant capital and often powerful political ties can easily outmanoeuvre smaller farmers who must compete

¹⁰ Over 90% of claims under the land restitution programme were for plots of under 1 ha (Medarov, G., 2013).

¹¹ Medarov, G. (2013), 'Land concentration, land grabbing and land conflicts in Europe: The case of Boynitsa in Bulgaria', in Franco, J.C. and Borrás, S.M. (eds.), Land concentration, land grabbing and people's struggles in Europe, Amsterdam, Transnational Institute, p.173.

on economically sub-standard plots of land. This is particularly so when they conspire with government authorities to steer legislation and development programmes in their favour. The recent passing of legislation in Bulgaria on so-called 'white spots' is but one such example (Box 2).

BOX 2. 'WHITE SPOTS' IN BULGARIA

Bulgaria's new class of land deal brokers - known locally as the *arendatori* - have played a key role in pushing for legislative reforms which facilitate land grabbing and land. This includes the passing of a recent piece of legislation around so-called 'white spots'. According to this legislation, all landholders are obliged to declare their intention to use the land each year by a specific date. If they do not do so, the municipality automatically redistributes the land to the *arendatori* for the 'average regional rent'. The rent is to be paid to the municipality and the original owners have three years to claim their money. The agricultural ministry says it has no idea how much land is part of these 'white spots', just that it knows 'they are not little'. This legal reform was justified by the authorities based on the need to consolidate land and by fact that some lands are 'idle'. However, many small farmers have complained that it is not easy for them to be at a specific municipality on a specific day in order to register their intention, particularly if they are living in another region; some are not even aware of its existence. A large number of small-scale farmers across the northwest region in Bulgaria have protested that the larger *arendatori* are using the legislative reform to 'grab' their land.

Source: Medarov, G. (2013).

2.3. A variety of other EU agricultural, food, and energy policies

2.3.1. Common Agricultural Policy (CAP)

The EU's Common Agricultural Policy (CAP) is the EU's central regulatory framework on agriculture. Having undergone many reforms over the decades, the history of the CAP has been to increase the market orientation of EU agriculture while providing income support and safety net mechanisms for produces, improving the integration of environmental objectives, and reinforcing support for rural development. The CAP is broadly divided into two pillars.¹² Under Pillar I, Direct Payments (subsidies) and market-related expenditures (price support) are distributed to EU farmers to boost the viability, productivity, competitiveness, and sustainability of EU agriculture. Under Pillar II, a series of aid, training, advisory, innovation and risk-management programmes, in line with various social and environmental criteria, are designed to support rural development in the EU. Both Pillars are geared towards the promotion of the CAP's three long-term objectives: i) to ensure viable food production; ii) to stimulate sustainable management of natural resources and climate action; and iii) to foster a balanced territorial development.

On this basis, what are the key elements of the CAP that are influencing the access to, control over and use of the land in Europe?

¹² Note that in the latest CAP reform, the two pillars were brought much closer in alignment through cross-cutting multifunctional political objectives, including economic, environmental and territorial ones.

2.3.1.1. The 2007-2013 heritage: farmland concentration and a dualist structure

The relationship between the CAP and farmland grabbing is related to the distribution of CAP benefits which has led to the concentration of holdings in terms of UAA and of capital, and thus, to land concentration. As argued earlier (Chapter 1.4.), farmland concentration and farmland grabbing are intimately connected.

To understand this phenomenon, we must refer to the previous CAP (2007-2014) which had strong structural impacts on land. The general principle of the Single Payment Scheme (SPS)¹³ decoupled payments from production and instead linked public farming support to land, namely hectares: “In the first year of the SPS implementation, each farm was allocated a given amount of SPS entitlements depending on the SPS model and the eligible area of the farm. Farms can activate the entitlements and receive the SPS if they are accompanied by an equal amount of eligible land. This implies that there is a direct link between SPS and land because, in the absence of land, farms cannot activate (cash in) the SPS entitlements” (CEPS, KUL & JRC, 2013). While the decoupling of payments from production responded to serious issues related to the subsidisation of overproduction, it has also created a situation whereby aid is distributed without any obligation to produce. There is thus a danger that land is bought up for the sole use of accessing subsidies, particularly in the absence of stringent criteria on the definition of an ‘active farmer’ (Chapter 4.1.2.).

This is particularly alarming given that the highly unequal distribution of land in the EU (see Table 2.) is matched by the highly unequal distribution of CAP subsidies (Table 3.). Within the Member States, the top 1% of beneficiaries capture a disproportionate share of Direct Payments. The following table shows that, for example, in Italy in 2013, 0,8% of the beneficiaries received 26,3% of the national DP.

¹³ Under the previous CAP, Direct Payments were distributed through the Single Payment Scheme (SPS) which was implemented through either historical, regional or hybrid models. The SPS was introduced by the 2003 CAP reform and it was implemented starting from 2005 and ran until 2013. The SPS replaced coupled subsidies which included crop area payments and animal payments. Under the SPS, entitlements were allocated as a fixed set of payments per farm. Farms were entitled to yearly payments, depending on the number of the SPS entitlements and the eligible land they possess (EP, 2013). In the historical Scheme, payments were fixed on the basis of the payment received before 2003, and divided in-between the entitlements. In the regional scheme, the same unit value was fixed for each entitlement. The hybrid Scheme proposed a progressive move for historical to regional model (dynamic model), or proposed a fixed share of regional and historical payment (static model).

Table 3. Distribution of CAP Direct Payments in 2013, for selected MS¹⁴

Member State	The top x% of beneficiaries	Received x% of the CAP direct payments
France	1,2	9
Spain	1,3	23,4
Germany	1,2	28,4
Italy	0,8	26,3
UK	0,9	14,4
Poland	2,0	28,5
Romania	1,1	51,7
Hungary	0,9	38,5
Bulgaria	1,1	45,6

Source: EC (2015).

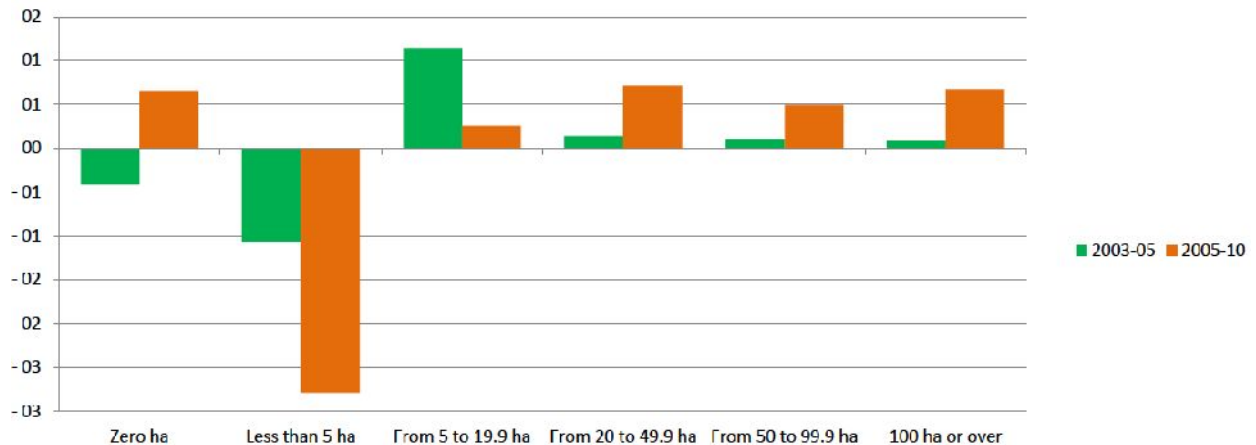
Among the Member States, the distribution of Direct Payments (DPs) is also very problematic. In 2013, with 42,7% of the holdings, Western European Member States received 82% of the DPs while in the same year, Eastern European Member States, with 61,9% of the holdings, received 18% of the DPs (EC, 2015; EC, 2013b). Also in the newer EU-10 Member States as well as Bulgaria and Romania, DPs, which are distributed through a flat area-based payment scheme known as the Single Area Payment Scheme (SAPS), have played a role in accentuating the structural dualism (see Chapter 2.2.) observed in many of these countries.

2.3.1.2. Towards a converging European farm model?

According to a number of studies commissioned by the EC (Agrosynergie, 2013; EC, 2013a; CEPS, KUL & JRC, 2013), the CAP has fostered the concentration of farm holdings throughout the EU: "In a context of long term decrease in the number of holdings (occurring also before the 2003 reform) the implementation of Council Regulation (EC) No 1782/2003 has contributed either to speeding up the exit of smaller-sized farms (< 25,000€ of SO) from the sector or to the growth in size of part of smaller-sized farms" (Agrosynergie, 2013: 316). Moreover, one of the effects of the CAP has been to encourage a structural change in the UAA of farms: "The results of the econometric estimation lead to conclude that decoupled direct payments may have played a role in structural changes occurred between 2005 and 2010, in particular towards a regional agricultural structure characterised by larger sized and more professional farms" (Agrosynergie, 2013: 319) (Figure 3).

¹⁴ Note that in order to define the top x% of beneficiaries and x% of direct payments, we used the category "size class of aid" in the table provided under the section "Agriculture: financial aspects; distribution of direct aids to the producers (financial year 2013)" for each Member State factsheet provided in EC (2015). We aggregated the largest classes of aid amounting to the top one and two percent of beneficiaries, and aggregated the corresponding percentage of direct payments received.

Figure 3. Variation between 2003-2005 and 2005-2010, in % of farm size class



Source: Agrosynergie (2013.)

These trends have led scholars to comment on a convergence of the agricultural sector concerning the size in UAA of an average European farm towards 113 ha: "Overall, farms that decided to decrease their size have in most cases a larger size and farms that decided to increase their size have in most cases a smaller size. Therefore, a process of structural adjustment was observed, leading to convergence towards an "intermediate" farm size. [...] Farms that have increased UAA have, on average, increased their farm size from 84 ha in 2004 to 102 ha in 2009. Farms that have decreased UAA have, on average, decreased their farm size from 142 ha to 126 ha. There is, therefore, a convergence towards the average farm size of 113 ha" (Agrosynergie, 2013: 323).

We will however not agree on the term "intermediate", which is on purpose in quotation marks, 113 ha is not an intermediate farm size. Indeed, the average size of a European farm is 14.5 ha. Nor does this convergence say anything about the type of farming activities carried out and the model of production underpinning it. Rather, the important point to stress is that this convergence is taking place against the backdrop of a drastic reduction in the number of farms in Europe, in particular of small farms. In the EU-27 the drop in the total number of farms was 19.8% while farms below 5 ha declined by 8.9% between 2003 and 2010 (Agrosynergie, 2013).

Land concentration and the CAP subsidy thus shape and (re)structure each other over time: as land becomes concentrated in fewer and larger holdings, so the CAP subsidy becomes more concentrated as well (Borras, S. et al., 2013). In Chapter 4, the expected impact of the new CAP on land is discussed. It is already suggested that "the changes will have a redistributive effect to the benefit of smaller farms (CEPS, KUL & JRC, 2013)". This depends very much however on how the CAP is implemented by the Member States, with options to either slow down and reverse or accelerate and exacerbate processes of farmland concentration and farmland grabbing.

2.3.2. EU food market and supply chains

The EU's food market is informed by a vast web of food supply chains, comprised of the agricultural sector, the food processing industry, and the distribution sector (wholesale and retail). Price transmission along these chains is complex, with each product adhering to its own cost-structure and pathway from agricultural commodity prices, to producer food

prices, to consumer food prices (European Commission, 2008). The structure of the EU food market determines land use and land distribution indirectly by affecting the distribution of profits along the food chain and the value added accrued to farmers and agricultural producers. In concentrated markets, there is a danger that dominant players will be able to abuse their buyer power to drive down farmgate prices and farmers' revenue, forcing farmers to operate under very low profit margins, making them more vulnerable to farmland grabbing, or driving them out of farming completely.

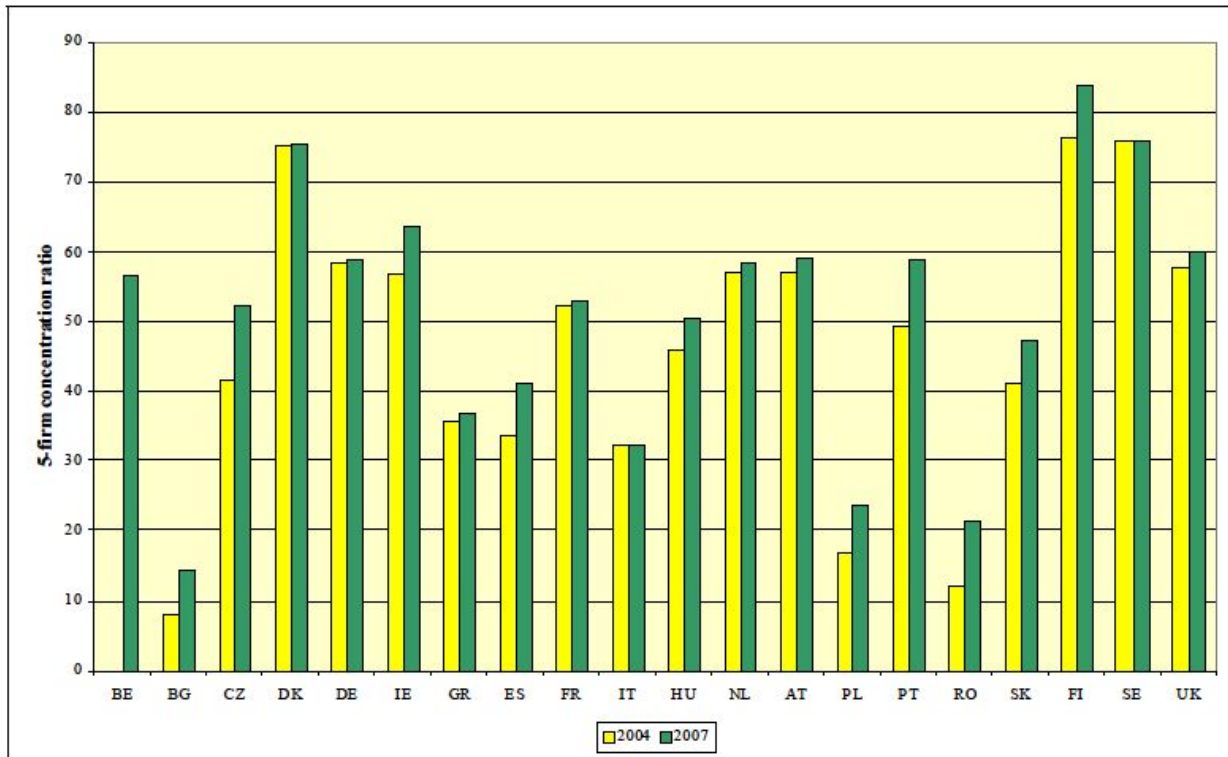
The degree of food market concentration in the EU is in this respect highly alarming: just 10 retailers control 40% of the European food supply (Friends of the Earth Europe, 2014). In most Member States, the five largest retailers hold over 50% of the market share (Figure 4). The degree of concentration of highest in the old Member States, where, at the national level, a handful of retailers control their respective food markets to the following extent¹⁵:

- in Austria, three companies control 82%;
- in Germany, four companies control 85%;
- in Finland, three supermarkets control 88%;
- in Portugal, three companies control 90%;
- in the UK, four companies control 76%;
- in Spain five supermarkets control 70%;

While the degree of concentration is higher in the old Member States, the rate of consolidation is strongest in the new Member States. In all Member States for which data is available, the market share of the largest retailers has increased (see Figure 4).

¹⁵ These statistics are found in Friends of the Earth Europe (2014), Broken Food Chains. Why European food and farming needs to change, Brussels, Friends of the Earth Europe, p.5.

Figure 4. Combined market share of the five largest retailer chains (2004-2007)



Source: European Commission, 2008, p.24.

A danger exists that the high degree of food market concentration in the EU will lead to the abuse of buyer power and hamper the proper functioning of the EU food supply chain. Indeed, an EP external study into the effects of supermarket concentration in the EU found that abusive buyer practices are prevalent in at least 17 Member States and that they are on the increase in MS where retailers are consolidating or have been taken over by foreign supermarket chains, such as Italy, Hungary, Latvia, Lithuania and Slovakia (Vander Stichele, M. and Young, B.). There is evidence that these practices are preventing farmers from receiving fair revenues. Abusive buyer practices, such as late payments, listing and slotting fees, a variety of extra or retro-active payments, and the threat of de-listing to drive down payments to suppliers, amongst others, all result in producers being squeezed. It is estimated that these payments can take up to 50% (Italy, Hungary) or even 70% (France) of suppliers' revenues, with small and medium enterprises in the food sector and farmers particularly hard hit (ibid.).

Meanwhile, growing food market concentration has gone in hand with a declining share in the value added accrued to the agricultural sector and to European farmers. Between 1995 and 2011, for example, the share of value added for agriculture in the EU food chain dropped from 31% to 21%, mainly in favour of other food chain actors (EP, 2015). Available EUROSTAT data shows, although using a different methodology, a share of value added of around 28% for the food industry and of 51% for food retail and food services taken together in 2011 (ibid.)¹⁶.

¹⁶ A note of caution is in order here in making too strong an inference on the bargaining power of the different actors in the food chain based on these variations in value added. As Matthews (2015) comments, leaving aside some statistical issues, a number of complex variables are at play here, including changes in the marketing bill due to changing patterns in the composition of consumer food products (in general, a shift

Against the backdrop of high and increasing concentration in the EU food chain, considerable abuse of buyer power and retail malpractice, and the squeeze on agricultural producers and suppliers, it is increasingly difficult for Europe's small farmers to remain on the land, thus increasing their vulnerability to farmland grabbing and accelerating the rate of farmland concentration.

2.3.3. EU energy policies

The EU's 2009 Renewable Energy Directive mandates that 20% of overall energy use at the EU level, and 10% of energy use in the transport sector at the Member States level, must come from renewable sources by 2020. While these targets can be met from a range of renewable technologies, these targets have interlocked with the EU's bioenergy strategy in which an increasing share of Europe's final energy consumption will be derived from agro-energy sources - particularly agrofuels in the transport sector - but also increasingly agroliquids and agromass for heating and electricity.

A number of studies have focussed on the impacts of the Renewable Energy Directive, and in particular its promotion of agrofuels, on land use changes in the global South. However, also within the EU, the Directive has had implications for land use and distribution, leading to greater farmland concentration.

This is witnessed in the increasing share of farmland given over to the production of energy crops. For example:

- In Germany, where the use of agrofuels has a longer precedent, more than 10 percent of arable land was already used for the production of energy crops in 2007, in particular rapeseed whose cultivation stood at 1.53 million ha, with 0.7 to 0.9 used for biodiesel production (Franco, J. et al., 2010). Germany is also heavily dependent on the importation of energy crops, importing 60% of its biomass used for energy in 2006, mainly rapeseed from Eastern Europe. This is only likely to be bolstered by the EU's Renewable Energy Directive along with other pieces of national legislation such as the 2009 National Biomass Action Plan which mandates a 10 percent bioethanol quota. It is estimated that the area of land given over to the production of rapeseed in Germany will increase up to 1.8 million ha (ibid.).
- In Andalusia, Spain, the increased demand for agrofuels led to a 269% rise in the production of wheat in 2008, as well as an increase in the production of oil seeds, barley and maize (Aparicio, M. et al., 2013).
- In Great Britain, there has been a rapid spread of biogas maize varieties, often growing on the best arable land, which is predicted to increase by more than 100,000 ha by 2020 (Monbiot, G., 2014).

The rise of energy crops in the EU is linked to processes of farmland concentration and represents a potential threat for the EU's small and family farmers for a number of reasons.

towards a larger selection of higher value, more processed foods). Nevertheless, the main big-picture argument, that farmers, in the face of high and increasing levels of market concentration, are likely to lose out and face the brunt of pressing cost-price squeezes and other consequentials remains valid and should be a cause for concern.

First, it signals a loss of farmland for food production and other agricultural activities with which the EU's smallholder farmers and peasant economies are traditionally associated. In Andalusia, Spain, for instance, the rise of energy crop production has gone hand in hand with the decline in production of durum wheat, beetroot, potato, cane sugar and hops amongst others. These diversified farming systems are instead being steadily replaced by monocultures, including those of energy crops, controlled by large agricultural enterprises, with significant implications for rural employment (Aparicio, M. et al., 2013). In a context where farmland throughout the EU is already subject to processes of 'artificialisation' and speculation (Chapter 2.2.), the conversion and diversion of farmland for energy crop production can thus further accelerate farmland concentration.

Second, there is evidence that rising land prices observed in many EU countries are linked to the bioenergy boom. The substantial rise in agricultural land prices in Germany experienced in recent years (Chapter 2.2.) has been attributed in large part to the rise of energy crops and the economic revaluation of farmland as a result. This threatens to price local farmers and smaller food producers out of the land market, thus encouraging greater farmland concentration. In the Emsland region of Germany, for example, new land leases reportedly cost up to €1,200 per hectare, about three times more than the mean price in the region (Herre, R., 2013). The local farmers argue that their 'classic' food production is economically viable only up to €500–600 per hectare.

Third, the growing commercial interest in land as a result of the EU's agrofuel and bioenergy policies has attracted new investors to farmland (Chapter 1.3.). In some regions in Germany it is estimated that these new investors have purchased between 15% and 30% of the land available on the market (ibid.). One example is that of the German financial investor, KTG Agar, which controls 38,000 ha of land, of which 28,000 ha are located in eastern Germany and the rest in Lithuania. It is rapidly expanding, with plans to grow by 10% per annum, or an additional 4,000 ha each year. One of the driving forces behind this expansion is the company's bio-energy production, mainly bio-gas but also wood pellets. Between 2007 and 2012 KTG Agar's output grew from 6.5 megawatts to 31 megawatts and it plans to expand to 50 megawatts by 2015.

2.4. EU trade, financial and investment policies

A host of other EU trade, financial and investment policies are driving farmland grabbing in the EU today. For brevity's sake this study will not go into these here but notes that excessive food price speculation as a result of deregulatory moves in the financial and agricultural markets, the prioritisation of an agri-export trading model over support for local food markets and economies, and regressive public spending on rural services, infrastructure and other public goods in particular regions, have all played a role in the rush for land in Europe as well as weakening the resistance of marginal rural areas to processes of farmland grabbing.

3. IMPACTS OF FARMLAND GRABBING IN THE EU

KEY FINDINGS

- Farmland grabbing, combined with the high capital costs of EU agriculture, are leading to the exit of small farms in Europe and blocking the entry of young and aspiring farmers.
- Farmland grabbing is leading to the replacement of the European model of family farming with large, corporate agricultural enterprises, with negative impacts for European food sovereignty and local food cultures, and potentially European food security in the long run.
- Against longer term processes of rural decline, large-scale land deals, through their control, privatisation and/or dispossession of natural resources, have become an active factor in the further weakening of the socioeconomic vitality of the rural sector
- Farmland grabbing is leading to land and environmental degradation through the substitution of a model of diversified, family farming based on healthy agricultural practices with that of an industrial agricultural system, heavily dependent on monoculture production and the intensive use of agrochemicals.

This chapter summarises the key socio-economic and environmental impacts of farmland grabbing and farmland concentration in the EU. Some of these impacts must be considered against the backdrop of longer-term trends in European land markets, agriculture and farm structures.

3.1. The marginalisation of family farming and the problem of 'entry denial'

One of the main problems confronting European farming today is that capital is now, more so than ever before, determining access to land. As the capital requirements of agriculture (both in terms of land and business capital)¹⁷ have soared in the context of market reforms, the industrialisation of agriculture, and the greater liberalisation of land markets throughout the EU, especially after 2000, the playing field has decidedly been tipped in favour of those resource-rich farmers and other investors. The result is that the workings of many Member States' land markets have become highly exclusionary, discriminating against smaller, family farms - a trend compared by Robert Levesque (2014) to a form of land grabbing through the market economy.

This process has led to a precipitous decline of family farming and small agricultural units in the EU (Table 4).

¹⁷ This includes sufficient start-up and business capital to cover the higher input costs which have accompanied the increasing industrialisation of agriculture. According to the EU (2012), "Intermediate consumption in 2011 in the EU-27 accounted for more than 61% of the output value of the agricultural industry at producer prices... The main input from intermediate consumption is represented by animal feedstuffs, which account for 39% of the total value of intermediate consumption. Energy and lubricants account for 12% of the total value of intermediate consumption, while fertilizers and soil improvements amount to around 8%. The main intermediate input items for crop production are fertilizers, plant protection products and seeds and plants, which together account for 17% of total agricultural intermediate consumption".

Table 4. The decline of small farms in Europe, 1990 - 2010.

Agricultural Holdings <10 ha	1990	1995	2000	2003	2005	2007	2010	1990-2010 Variation
Austria		126,270	108,310	88,530	86,310	84,590	72,970	-42%
France				219,060	194,270	173,510	175,910	-20%
Germany	316,870	260,870	189,510	155,760	143,020	133,240	73,260	-77%
Italy	2,376,440	2,191,790	1,901,570	1,712,970	1,474,600	1,431,580	1,363,180	-43%
Spain	1,194,540	904,940	904,310	776,150	725,560	694,690	644,930	-46%
United Kingdom	62,050	60,010	68,520	94,500	96,650	58,020	39,370	-37%
Poland				1,789,770	2,110,420	2,015,840	1,158,370	-35%
Hungary			876,140	665,660	617,730	524,210	485,340	-45%
Romania				4,238,430	4,025,400	3,751,160	3,641,560	-14%
Bulgaria				643,290	507,550	466,690	336,080	-48%

Source: EUROSTAT (holdings and UAA: ef_ov_kvaa; ef_kvaareg).

This is producing not only a quantitative shift in the numbers of small and family farms in the EU, it is also leading to a qualitative shift in the nature and structure of family farms due to shifting constellations of land, labour and capital. In France for example, the sharp increase in the capital requirements associated with agricultural production mean that so-called family farms now rely more and more on farm labour from outside of the family (Levesque, R., 2014). Meanwhile, the price of farmland is often so high that it is beyond the reach of many farmers to buy so that, rather than owning the land, land leasing is now the main way in which 'family farms' operate and grow (ibid.).

The corollary of the exit of small, family farms from EU agriculture is the creation of barriers to entry into agriculture for young and aspiring farmers. As the Opinion of the European Economic and Social Committee on land grabbing argues, "Land grabbing and land concentration result in those farms that had been using the land being squeezed out...This process is generally irreversible, since it is very difficult for small farmers or even for new businesses (and young farmers) to acquire land and establish themselves in this economic sector without sufficient capital"¹⁸. The combined effects of land concentration, land grabbing, market forces and other structural and institutional barriers are substantial (Box 3) and can effectively constitute a form of 'entry denial' to young and aspiring farmers. In this sense, land concentration, land grabbing and 'entry denial' act as three corners of the 'land question triangle' in Europe, with each one reinforcing the other. As Borrás, S. et al. (2013: 23) argue, "the three trends are inextricably interlinked, even if unfolding unevenly across Europe".

BOX 3. BARRIERS TO PROSPECTIVE FARMERS IN FRANCE 'Farmer seeks land'

The French situation illustrates the numerous hurdles to becoming a farmer for those without land already. To receive state support one must first get a diploma in agriculture, then find a farm to buy or rent, and then obtain a licence to farm which is based on the prospective farmer presenting a viable business plan within one month - a very short timeframe. Critically, land is getting more expensive and less available. Prospective farmers are finding it increasingly difficult to actually acquire land to farm due to land concentration

¹⁸ European Economic and Social Committee (2015), Land grabbing - a warning for Europe and a threat to family farming, Own initiative opinion, p.7, paragraph 4.3.

and artificialisation. More than 60,000 ha of mostly fertile farmland are lost every year due to land use conversion to non-agricultural uses, while the cost of land is rising dramatically. For instance, a €5,000 per hectare farmland assessed in the context of non-agricultural uses can be sold for at least a hundred times more. Anyone lucky enough to clear this hurdle must then compete in a sector increasingly dominated by large farms. Farms on the market that are less than 50 ha are often snapped up by neighbours seeking to enlarge their own holding, incentivised in part by CAP subsidies linked to farm size. While in 1955 80 percent of all farms in France were less than 20 ha, the average size today is around 80 ha. This trend is reinforced by environmental laws such as nitrate regulation, for example, which incentivise expanding farm size, rather than reducing livestock numbers in order to achieve a certain nitrate ratio.

Source: Extract from Borras, S. et al. (2013), p.23

This entry denial to young and aspiring farmers raises a serious generational question with respect to farming throughout the EU. With only 7.5% of farms in the EU-27 managed by people under 35 in 2010 (Claros, E., 2013) and more than half of land holdings run by farmers over the age of 50, the continuation of farming livelihoods is an issue of pressing social concern¹⁹. This is especially so in light of farmland grabbing and farmland concentration in the EU. As Borras, S. et al. write, "While it is difficult to quantify, it is safe to assume that many of the small farms that were swallowed by bigger holdings were vulnerable due to lack of a younger generation who wanted to take up work from the older generation" (2013:22).

With the demise/marginalisation of small-scale farming in Europe and the high barriers to entry for young and aspiring farmers, the multiple benefits of this type of farming system and way of life are also eroded. Small-scale farmers form the backbone of European agriculture and are very positive for Europe in many ways: they are strengthening food security by producing healthy and plentiful food of known provenance; they support food sovereignty by building up local markets and shorter producer-to-consumer food chains which reduce dependency on global markets and vulnerability to price shocks; they are protecting the environment and local biodiversity by practising a form of non-conventional, diversified agriculture (i.e. with fewer chemical inputs and based on natural cycles of regeneration); and they bring dynamism to rural areas by generating employment and sustaining rural community life based on local food cultures and traditions (European Economic and Social Committee, 2015). Yet the multiple benefits of this farming system and way of life are increasingly under threat by accelerating and often interacting processes of farmland grabbing and farmland concentration.

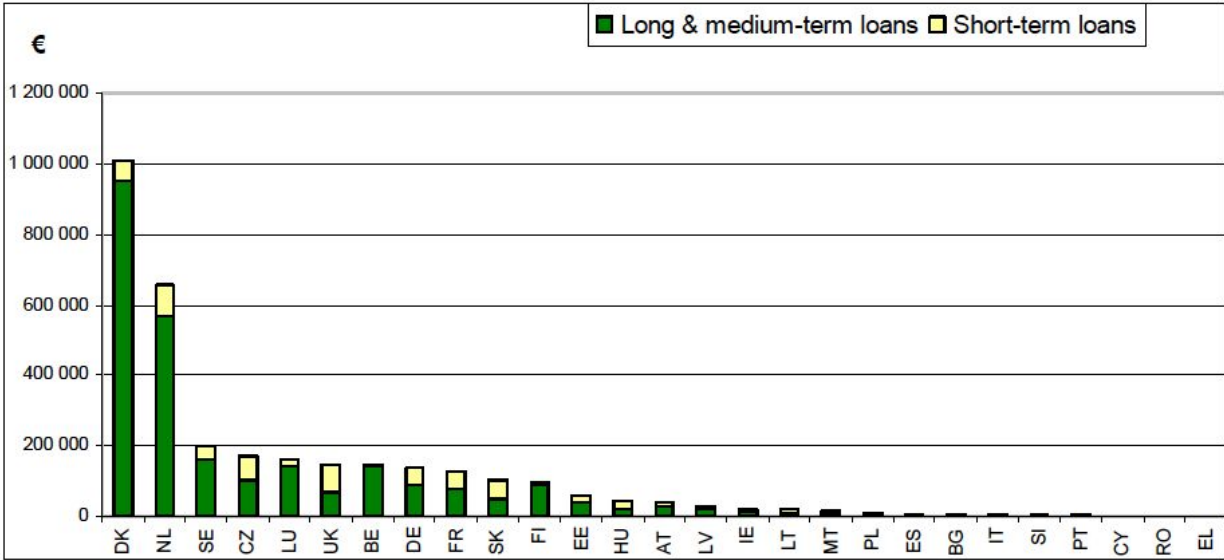
3.2. The rise of large, corporate agricultural enterprises

The European model of family farming is steadily being replaced by the emergence of large, corporate agricultural enterprises (Chapter 1.3.) which are driving, and in turn benefit from, processes of farmland concentration and - at times - farmland grabbing. The emergence of these enterprises is troublesome for a number of reasons:

¹⁹ It is important to qualify here that the picture, in terms of the share of young farmers of the total number of farmers, is varied across MS. However, the general direction of travel is clear. While the share of young farmers increased in seven EU MS between 2003 and 2010, it declined in the remaining twenty EU MS (Claros, E., 2013). For Cyprus, the Netherlands, Ireland, Belgium and Germany the absolute decrease in their share was more than 40%.

1. Fragility: although large in size, these agricultural enterprises turn out to be economically vulnerable and are more likely than smallholder farms to go bankrupt (Van der Ploeg, J., 2014). This is largely due to the debts they accumulate which, in volatile markets and combined with low prices, can often result in negative cash flows. In Russia for example, more than 50% of these enterprises are in fact losing revenue (ibid.). Between 2008 and 2009, and again in 2014, many large-scale farms in the process of expansion went bankrupt, particularly those in Denmark and the Netherlands due to their high debt-to-asset ratios which increased their exposure and sensitivity to market volatility (Van der Ploeg, J. et al., forthcoming). In a context whereby the EU-27 average liabilities per agricultural holding were €39,100 in 2007 (Figure 5), and increasing in both the EU-25 and EU-10, there is at least the latent threat that accumulated debts will, in particular conjunctures, lead to an ever greater number of (large) farms going under²⁰.

Figure 5. Composition of liabilities per farm by Member State in 2007



Source: European Commission, 2010b, p.33.

2. Industrialisation of agriculture: these large agricultural enterprises represent an industrial way of farming based on monocultures, the intensive agro-chemical use, and higher use of preventive medicines. This not only has implications for the environment (Chapter 3.5.) and animal welfare, it also affects rural employment since the labour requirements of large, industrial farms are much lower than those of small family farms (Chapter 3.4.) For example, Genagricola, the agricultural holding division of the Italian insurance firm Generali, which controls 4,500 ha in Romania, generated only 62 jobs in 2013 (Eco Ruralis, 2015b).

²⁰ Another startling illustration of the fragility of large, corporate agricultural enterprises and the agri-export model is that of Ireland’s meat and dairy industry. The production model here is such that cattle rearing takes places in feed lots as opposed to the field, despite Ireland’s high capacity for grass-fed production. This led to some farmers running out of fodder for their animals in 2012-2013, necessitating the import of fodder from overseas. As Anderson (2013: 218) argues, “This unprecedented step unmasked the very tight margins under which most farmers are working. Farmers in Ireland, particularly those involved in animal rearing, depend almost entirely on direct payments to reach an average industrial wage of just over €21,000 per year.”

3. Less productive: in several places where land is more highly concentrated, yields per hectare (and per animal) are going down (Van der Ploeg, J. et al., forthcoming). Strikingly, the EU's "large farms", which according to EUROSTAT (2011) account for 20 per cent of all UAA, are generating only 11 per cent of Europe's total agricultural production, calculated here in terms of the total Standard Gross Margin of the EU-27 (ibid.). They also generally demonstrate a lower productivity per unit of labour compared to smaller farms (Van der Ploeg, J., 2014). As a result, while these large agricultural enterprises may start with high value products, there is an observable tendency for them to extensify over time, moving towards low value, large-scale crops, including even timber and biofuels.
4. Irreversible: these impacts of the rise of large, corporate agricultural enterprises are heightened by that fact that these changes can be difficult to turn back. With processes of farmland concentration and farmland grabbing enabling the rise of these large enterprises, there is a danger that - if current trends continue - Europe will become increasingly and irrevocably dependent on these enterprises, seriously damaging European food sovereignty (Chapter 3.3.).

3.3. Threats to European food security, food sovereignty and local food cultures

There are a number of ways in which farmland grabbing and farmland concentration weaken European food security and undermine European food sovereignty and food cultures.

First, the degree of land concentration and capitalisation of EU agriculture is such that a sizeable portion of farmland in Europe is de facto economically owned by banks (Chapter 1.3). In situations where such farmland often acts as collateral, and in a context of economic austerity and high agricultural debt²¹, bringing these huge amounts of land to the market might become an attractive, even necessary, option. As Borras, S. et al. (2013) argue, "Such a scenario so far remains hypothetical, but it is far from impossible. The point is that if (or when) it would occur, Europe would be without defense"²². It is not inconceivable that this should happen. As a result of the banking crisis and the bursting of the housing/construction bubble in Ireland in 2008 for example, the newly created National Asset Management Agency (NAMA) became the largest landowner in the country overnight (Anderson. F., 2013). While this is an example drawn from a more urban setting, this could just as easily affect farmland, particularly in the context of (re)capitalisation requirements such as Basel III type agreements. In fact, RABO bank recently contracted the McKinsey consultancy firm to explore possibilities for bringing horticultural farms to the market (Van der Ploeg, J. et al., forthcoming).

Second, the economic and market effects of farmland grabbing and farmland concentration can negatively impact European food sovereignty and food security. The entry into the land and food markets of large agri-business corporations often drives down the farmgate price of agricultural commodities. Local farmers are then forced to lower their own prices to compete, resulting in them operating under ever tighter margins and diminishing returns, and forcing many small farmers to go out of business. It is important to

²¹ The total debt of Dutch agriculture amounts to €30.2 billion - 15 times as much as the total agrarian income of Dutch agriculture. This is far from a unique situation. Danish agricultural debt for instance is equivalent to 50% of the national state budget.

²² Borras, S. et al (2013), p.24.

note that the savings in production costs accumulated by agribusinesses are not necessarily passed on to the European consumer but are instead captured by large food retailers and distributors. In Spain, for example, where the five largest national groups control over 60% of the retail distribution, price structures are characterised by marked differences between farmgate and retail prices: only in 2009 price differentials from field to fork rose to 490% (Aparicio, M. et al., 2013).

Third, the trajectories of land use change induced by farmland grabbing and processes such as land artificialisation (Chapter 2.2.) can negatively affect food security. Land grabbing in this sense is not just a matter of who owns the land and how it is distributed, it also matters what the land is being used for (Laurens, H., 2014). Globally, there is a huge increase in the amount of farmland given over to so-called 'flex crops' (Borras, S. et al, 2014). These are crops that can be used for a variety of purposes (food, feed, fuel) and whose end-use is determined by profit margins and market signals such as their relative value on stock markets. The rise of flex crops is thus intimately connected with the growing financialisation of agriculture, with the profitability of land being increasingly linked to the possibility of 'flexing'. This can have detrimental impacts on European food production. In Germany for example, organic farming is declining because organic farmers are finding it increasingly difficult to access land and are being squeezed out due to the rise in land use for maize varieties for biogas production (Laurens, H., 2014).

Lastly, farmland grabbing and farmland concentration are leading to the steady erosion of European food cultures and traditions. Diversified farming systems grounded in particular agro-ecological practices are abandoned in favour of a homogenised agro-industrial model based on monocultures. This deepens the disconnect between producers and consumers as food products appear increasingly dislocated from their origins and conditions of production. In this "food from nowhere" regime, prices become the first criterion at the expense of seasonality, nutritional value, or taste. It also deepens the divide between rural and urban populations as globalising and corporate-controlled food markets deliver food products seemingly without provenance to (trans)national supermarket chains, driving out local food markets and food stores in the process.

3.4. Rural unemployment, outmigration, and decline

The 'structural transformation' of EU agriculture and the impact of dramatic processes of farmland concentration can be seen most starkly in measures of agricultural economic activity, vitality and employment. In just 30 years more than half of the farming population of the original six countries of the European Economic Community (EEC) has vanished, falling from 10.4 million in 1960 to 4.8 million in 1990 (Gardner, B., 1996). This decline in the farming population is reflected in the relative importance of agriculture in the European economy. While agriculture accounted for 11.5% of total GDP and 21.2% of total employment in the original six EEC in 1995, by 2007, these were reduced to a mere 2% and 6.2% respectively (ibid.). In 2010, there were just 12 million farms in the EU employing 10 million people (full-time equivalents), accounting for just 5% of total employment in the EU (Friends of the Earth Europe, 2014). Three million farms, around 20% of the total, have been lost in Europe during the last eight years, most of them small (ibid.).

The decline of European agriculture and the exit of Europe's small, family farmers makes its presence felt particularly in terms of rural employment. As the European Economic and Social Committee Opinion on land grabbing notes, "In Europe, there is a

correlation between the dwindling number of agricultural production units and the number of people employed in agriculture. For example, between 2005 and 2010 the number of production units fell most in the eastern European countries, especially the Baltic States (Estonia, Latvia and Lithuania), and at the same time the region saw the biggest drop in labour demand (8.9% in Bulgaria and Romania and 8.3% in the Baltic States annually)²³. Between 2000 and 2012, 4.8 million full-time jobs disappeared from EU agriculture (Friends of the Earth Europe, 2014).

The new wave of land grabbing underway in Europe, linked to the emergence of large corporate enterprises (Chapter 3.2.), is only speeding up this process of rural outmigration as the labour requirements of intensive agribusiness operations compared to family farming are minimal. The agribusiness company Emiliana West Rom in West Romania for example only generates employment for 99 people on an area of 11,000 ha (Bouniol, J., 2013). Similarly, the agribusiness company Transavia, which controls 12,000 ha of land in Cluj district in Romania, generates only a dozen employees in its operations around the village of Aiton, principally for tractor driving, surveillance and the technical maintenance of equipment (ibid.).

The combination of high corporate ownership of land with high levels of rural poverty and unemployment is striking. The region of Andalusia, Spain for example has the EU's highest unemployment rate, affecting 35% of the region's economically active population and rising to 40% in rural areas (Aparicio, M. et al., 2013). This has gone hand in hand with a major increase in corporate land ownership: the number of corporations (excluding cooperatives and agro-processing companies owning farmland) has doubled over the past decade. Among the 16 Spanish districts with the greatest presence of business corporations owning agricultural land, 10 are in Andalusia. The result is a combination of factors driving rural poverty, unemployment, outmigration and decline. As Aparicio, M. et al. write:

‘In Andalusia, the concentration of land ownership and the reluctance of landowners to create jobs in districts strongly affected by unemployment and chronic poverty have prompted the rural exodus. Accompanied by demographic shifts, this also further encourages land abandonment, causing losses in the associated bio-cultural memory since knowledge is not being handed down from one generation to the next’²⁴.

All of the above impacts on the dynamism of agriculture and the rural sector. Against the backdrop of an existing rural exodus and the disappearance of peasant farming, large-scale land appropriations, through their control, privatisation and/or dispossession of natural resources, have become an active factor in the further weakening of the socioeconomic vitality of the rural sector (Borras, S. et al., 2013). This often interacts with much earlier rounds of land grabbing which show how difficult it is to reverse processes of rural economic decline and depopulation once these have started. The danger is to be left with a “beautiful empty landscape” as in the case of Scotland (Box 4).

²³ European Economic and Social Committee (2015), p.6, paragraph 3.4.

²⁴ Aparicio, Marco, Manuel Flores, Arturo Landeros, Sara Mingorria, Delphine Ortega, and Enrique Tudela (2013), ‘Access to Land and Struggles in Andalusia, Spain’, in Franco, J.C. and Borras, S.M. (eds.), Land concentration, land grabbing and people's struggles in Europe, Amsterdam, Transnational Institute, p.36.

BOX 4. THE IMPACT OF RURAL FLIGHT IN SCOTLAND “A beautiful empty landscape”

Land grabbing is not new phenomenon, as the case of Scotland illustrates. Already in an earlier cycle of land grabs during the period 1745-1750, land was given to large land owners as a result of the eviction policies of the English. The land was generally considered to be unproductive and broken into tracts of between 10,000 to 50,000 hectares and given over to sheep rearing. However, due to the cheaper sheep wool imports from Australia, the sheep industry collapsed about 60 years later. The impacts of these agriculture units and land concentrated were immense since as the labor requirements decreased, large numbers of people started to leave. By 1900 vast areas of the Scottish Highlands, which had at one point counted 1.5 to 2 million people, stood empty. Only two hundred years later, in 1950, there was public recognition of the failure of past policies. Between 1970 to 2010 vast amounts of public money were spent in an attempt to bring people back, amongst other initiatives through investment in hydroelectrics and tourism. Yet the current population density is only 0.1 persons per ha. This shows how once an area has deteriorated, it is very difficult to pull it back and it is not economic to do so. It is “a beautiful empty landscape”.

Source: Paraphrased from a presentation given by European Economic and Social Council Member, Mr. Brendan Burns, at a public hearing on land grabbing in Brussels on the 4th November, 2014.

3.5. Land degradation

The links between farmland grabbing, farmland concentration and land degradation relate principally to the substitution of a model of diversified, family farming based on healthy agricultural practices with that of an industrial agricultural system, heavily dependent on monoculture production and the intensive use of agrochemicals.

For example, the agro-industrial company Transavia in Romania, which produces up to 50,000 tons of meat and 30 million eggs per year, uses chicken manure as a ‘natural’ fertiliser despite the fact this spreads polluting elements due to use of over-rich nitrogen containing feed which is ingested by the poultry during breeding (Bouniol, J., 2013). When it seeps through the soil, the manure can pollute groundwater resources, with a number of inhabitants in the area already complaining that the water wells smell bad (ibid.). Transavia’s practices thus pose both environmental and health hazards.

More generally, monoculture production weakens biodiversity and destroys existing ecosystems, such as grasslands, while intensive agricultural practices such as deep ploughing, by destroying soil structure, increase the risk of erosion. The result is a situation whereby agricultural production and environmental conservation become increasingly opposing, rather than complementary, objectives.

The growth in energy crop cultivation - which has been a driver of farmland grabbing and increased farmland concentration throughout the EU (Chapter 2.4.3.) - has also produced negative environmental impacts. The rise in energy crop cultivation in Germany, especially rapeseed and maize, to meet national and EU level biofuel targets, has led to more intensive cultivation methods, with a greater use of synthetic pesticides and fertilizers. It has also been associated with greater ploughing, leading to a 3.4 percent loss of permanent grassland from 2003 to 2008 (Franco et al., 2010). Energy crops have also

been grown on land originally classified as set-aside. In 2007, almost 50% of set-aside land in Germany had been brought into production (ibid.).

Similarly, in Great Britain, there is evidence of a 'soil erosion crisis'. In Devon, for example, farmers are losing topsoil at the rate of 5 tonnes per hectare per year (Monbiot, G., 2014). The dire situation of the soil in Britain is exacerbated by the rapid spread of maize, especially biogas maize varieties, growing on the best arable land. This is predicted to increase by more than 100 000 ha by 2020 (ibid.).

Fifty per cent of European wildlife species depend on farmland and the damage to key habitats has been severe - accelerated by the emphasis on monocultures, mechanisation and specialisation leading to the loss of mixed farms and the enlargement of fields across Europe (ibid.).

4. POLICY RECOMMENDATIONS

This Chapter draws together the main findings of this study and offers a series of recommendations addressed to policy makers at EU and Member State level to tackle farmland grabbing in Europe today.²⁵ These recommendations are informed by an approach which situates farmland grabbing in Europe within longer-term dynamics of structural change: numerous factors intervene in a structural change - and different EU policies influence the land question in Europe, at least indirectly - while policies are immersed within a context²⁶. As such, recommendations to tackle farmland grabbing in Europe are considered from the perspective of four principal EU horizontal frameworks that shape the state of the land in Europe today. These include: i) the CAP; ii) EU environmental policies; ii) EU rules governing the internal market; and iv) EU policies regarding territorial development and cohesion. It is argued that, in the absence of an EU land policy, these horizontal frameworks are creating a de facto EU land framework anchored in a (neo)liberal narrative which considers land above all as a tradable commodity. The Chapter ends with a recommendation to adopt a more holistic approach to land governance in Europe which considers also the political, social, and ecological dimensions to land governance based on the FAO Tenure Guidelines.

4.1. Recommendation on the CAP

4.1.1. Review: the relationship between CAP and land

We have seen in Chapter 2.3.1 that the CAP strongly shapes access to, control over, and use of the land in Europe through the following ways:

- The CAP directly influences the size of agricultural holdings throughout the EU through the Single Payment Scheme (now becoming the Basic Payment Scheme) distributed through entitlements which are related to the surface of the farm or the quantity of livestock. This situation created a real incentive for farm size enlargement because there were neither limits nor modulation included in the previous CAP. Even if the new CAP introduces more balanced schemes, the general principle still remains that the more hectares one owns or controls, the higher the payments one receives, thereby justifying a situation whereby large-land owners receive hundreds of thousands, if not sometimes millions of Euros, of public aid.
- The CAP impacts on the economic value of agricultural holdings (CEPS, KUL & JRC, 2013) and thus by extension on their land value. With the exception of the pig and poultry industries, there is a clear relationship between small physical size and small economic size.
- The CAP guides the type of farming activities undertaken by agricultural exploitations even if the decoupled payments have allowed farmers greater freedom in their investments. Until now, cereals have been particularly favoured by the CAP which are generally associated with larger-scale farming.

²⁵ It is important to note that there are also external dimensions to processes of farmland grabbing in the EU. It is not within the remit of this study to address these but they have been discussed by Cotula, L. (2014) amongst others.

²⁶ "It is widely recognised in the literature that there are three characteristics of structural change adding complexity to the topic. First, structural change is a long term phenomenon that occurs over a relatively long period of time. Second, it affects several structural attributes of the sector at the same time. Third, the evolution of farm structure is part of a more complex evolution of the agricultural sector and its role in the economy" (Chavas, 2001).

- The CAP impacts upon patterns of land tenure and land transfer through rates of capitalisation. This is a complex measurement for analysing the monetary relation between land and the CAP. Econometric studies show very interesting results.²⁷
- The CAP shapes the overall land market by informing the way in which land is viewed, especially when the Direct Payment coupled to the land is perceived as an annuity. When the land is understood as a source of income, also for the future and as a significant complement to the pension, farmers will be less likely to sell. This situation is favouring the use of leasing contracts rather than the buying of lands, while lands that can be rented with a good price remain in the hands of the owner or are reserved for buyers with greater bargaining power.

The above review demonstrates that the CAP has had a major impact on the state of the land in Europe today. While many other factors have also played a role, the CAP is clearly associated with processes of land concentration in the EU. As Borrás, S. et al. (2013) write, “Dramatic processes of land concentration within the EU have coincided with the concentration of the benefits of CAP subsidy in the hands of fewer and bigger land holdings. There has been at least the coexistence of the CAP subsidy system and tens of thousands of farmers being put out of farming every year”. The CAP in this sense has clearly failed to live up to its declared objectives to keep people in farming and on the land and to promote a balanced territorial development.²⁸

As argued before, processes of farmland concentration and farmland grabbing are closely interlinked (Chapter 1.4.). The interlocking of these two processes combined with CAP subsidies which transfer greater financial leverage to large-scale farmers and release capital for further land acquisitions and transfers is to be prevented. This however requires strong political direction as the EC itself acknowledges:

‘The changes observed in the distribution of direct payments between beneficiaries are not only the result of structural changes in the EU farms but also the result of policy decisions. Indeed, distribution of direct payments between small and large farms has been regularly questioned, not least from the point of view of social cohesion... This is why some concerns with the way direct payments are distributed across agricultural producers and Member States have been expressed on many occasions, and the Commission has proposed mechanisms to decrease or to limit the amount of direct payments to the largest beneficiaries with a view to making the distribution of direct support fairer’.²⁹

In this respect, the new 2014-2020 CAP, reformed in 2013, draws novel and interesting perspectives to support marginalized farmers and to mitigate processes of land concentration which are the two main political lines that the EU must follow to reduce and

²⁷ In the SAPS area, they find that between €0.15 and €0.32 per additional Euro of payment is capitalized in the land rental price increases. In the SPS area, Kilian et al. (2012) analyse capitalization in land rental prices in 2005 in Bavaria, Germany – a region which implements the regional SPS model. They find that 44% to 94% of the DPs are capitalized into land rental prices. This is similar to the pre-2003 DP capitalization rates found in earlier studies on the EU (around 40%), although Kilian et al. (2012) find that decoupling of support increased the capitalization rate by more than 15% in Bavaria. In the SPS area, Michalek, Ciaian and Kancs (2013) estimate the capitalization into land rents using farm-level data across the EU-15 for the early period of SPS implementation (2004 to 2007). They find much lower estimates: the average level of capitalization is only 6%. These studies finally show that a regional model produces higher capitalization rates from the CAP (decoupled payment) than a historical model and that a hybrid model has higher rates than the historical SPS.

²⁸ According to the EC (2014b: 9), “Direct payments help to keep farming in place throughout the EU territory by supporting and stabilising farmers’ income, thus stimulating economic activity, indirectly helping to support growth and jobs and contributing to the vitality of rural areas”.

²⁹ European Commission (2014b: 7-8).

ban farmland grabbing within its territory. Major inequalities in the payment distribution could be challenged and this possibility remains in Member States' hands. This study provides a series of recommendations for adjustments to the 2013 CAP toolbox in order to move from the current baseline, or business as usual scenario, to a best case scenario where the CAP is used to effect 'land de-concentration' i.e. ensure a more equitable distribution of farmland as the best way to tackle farmland grabbing from within the EU's agricultural policy framework.

4.1.2. From a baseline to a best-case scenario: recommendations for adjustments to the 2013 CAP toolbox

The new CAP, even if the general principle of decoupling payments from production remains, proposes a number of interesting schemes which, if used properly, could signal a significant reorientation of the CAP in order to break the links between CAP and processes of farmland concentration and farmland grabbing. This would be achieved by using the First Pillar of the 2013 CAP toolbox which offers a number of compulsory or voluntary schemes to the Member States (Figure 6).

Figure 6. The 2013 CAP toolbox, options under the First Pillar

In 2015, active farmers will have access to

Compulsory Schemes (all MS)	Voluntary schemes (MS choice)
<ul style="list-style-type: none"> - Basic payment (or Single Area Payment) - Green payment - Young farmers scheme 	<ul style="list-style-type: none"> - Redistributive payment - Support in areas with natural constraints - Coupled support
<p>All payments subject to cross compliance</p> <p>All farmers will have access to the Farm Advisory System</p>	
<p>OR</p>	
<p>A simplified scheme for small farmers (voluntary for MS)</p>	

It should be noted that the opportunity for adopting these schemes depends also on the institutional agenda. We recommend the Member States to push for a progressive land governance in the EU, using the appropriate forums and initiatives, and keeping in mind the political agenda. We recommend the Commission to make good use of the 2017 budgetary review to make significant changes in the allocation of Direct Payments for distinctive measures. The CAP post-2019 is a longer-term horizon that represents a fundamental moment for adopting these recommendations and challenging farmland grabbing and farmland distribution in the EU. A far-sighted vision of agriculture is indeed needed in the European Union.

We recommend the adoption of the following options when MS implement the CAP 2014-2020 and during the next mid-term review. They aim at empowering small farmers and 'de-concentrating' the land market in order to curtail farmland grabbing. We recommend adopting the redistributive payment as well as capping the maximum amount of payments a beneficiary can receive according to the most ambitious options.

a) Convergence of payments

The regionalization of payments, instead of its historical allocation, is expected to lead to a more balanced distribution of payments.³⁰ We therefore recommend setting the rate of internal convergence of payments to 100%. In 2014, six Member States have shifted from historical SPS to regionalised BPS, including Germany, Greece, Spain, France, Finland, and the United Kingdom.

b) Redistributive payment

A top-up payment for the first hectares will have high redistributive effects and should be obligatory. This is the best option to “de-concentrate” land and support smallholders. This aid is independent of the size of the exploitation, meaning that every farm will have the same advantage on the market. However, small farms will receive relatively more aid than before while larger farms whose size is above the national average will receive lower payments on the following hectares. Germany has chosen to support the first 30 ha (50€/ha), and then the next 16 ha (30€/ha).

In 2014, eight Member States have declared their intention to use the redistributive payment including: Belgium, Bulgaria, Germany, France, Hungary, Lithuania, Poland, and Romania. France will use 20% of its First Pillar share in 2019 to support the first 52 ha of each holding, which is the national average. In 2014, eight Member States have declared their intention to use the redistributive payment including: Belgium, Bulgaria, Germany, France, Hungary, Lithuania, Poland, and Romania

We recommend Member States to adopt this measure as soon as possible and with the highest share of Pillar 1. We recommend the Commission to consider during the 2017 budgetary review the strengthening of this measure and improve the redistribution of aids. The CAP post-2019 could include a compulsory redistributive payment (by hectare capping or in function of number of hectares).

c) Reduction in payments

The payment ceiling is the most important measure to reduce land concentration and should be obligatory. The reduction in payments is obligatory except if Member States are applying redistributive payments with an allocation higher than 5%. Basic payments above EUR 150,000 need to be reduced by at least 5%. Member States may decide to apply this reduction after having subtracted the salaries paid by the farmer from the amount of the basic payment.

Belgium (Flanders), Ireland, Greece, Austria, Poland, the United Kingdom and Hungary (EUR 176,000) have already set up this measure. Fifteen MS chose to only reduce the subsidies by 5% for the subsidies higher than EUR 150,000. Bulgaria and Poland are applying for the reduction of payment and the redistributive payment.

We recommend a capping of the basic payment above EUR 150,000 by applying a 100% reduction. This would end support to very big farms that have significant economic advantages on the market, and free up subsidies for the other interesting schemes. We also recommend setting up a lower capping at EUR 100,000.

³⁰ EC (2011): “In many MS the move from the allocation of DP based on historical farm individual references to a flat rate payment per ha of eligible area (move to a “regional model”) leads to a significant redistribution of DP. [...] Hence, due to the introduction of a flat rate payment, farms with a high payment level lose DP and farms with comparatively low payment level gain.”

d) Young farmer scheme

In order to encourage generational renewal, the Basic Payment (BPS/SAPS) awarded to new entrant young farmers (those under 40 and commencing their agricultural activity) should be topped up by an additional payment of up to 2% of the national envelope for a maximum 5 year period. We recommend using this scheme to the fullest extent possible, that is, using the 2% of the national envelope for any new exploitation regardless of its size. Young farmers regenerate rural areas, are more likely to innovate than conventional farms, and help rebalance the urban/rural relationship.

e) Small farmer scheme

This scheme consists of a simplification of administrative procedures, an exemption of small farms from greening and from cross-compliance sanctions and controls, and an annual payment of up to EUR 1,250 (calculation methods up to the MS).

We recommend the adoption of this scheme at the maximum level of €1,250 p.a. However, this amount is not high enough to offer a real advantage to small farmers in Western Europe while it is too high in the context of many Eastern European MS. Instead of a capped amount, a share of the CAP budget would have been more balanced and was an option proposed by the EC in its impact assessment of the CAP (2011). Due to the multiple benefits they deliver in terms of securing a sustainable and vibrant agricultural and rural sector, small farms should be favoured in the same way as young farmers are through a specific share of the first pillar (5-10%) i.e. with an exclusive top-up. We therefore recommend adjusting this scheme to address the needs of small farmers along the lines mentioned above.

f) Greening

The CAP's new greening policies are to be welcomed as they will be beneficial for both the environment as well as for land prices: "The effect of greening on the land market is likely to be a decline in land rents. An increase in requirements will increase the costs for farms, thus reduce profits from land use and hence reduce demand for land. This, in turn, will lead to a reduction in land use and a decline of land rents. The size of this effect may be small, depending on the precise conditions for "greening" and how these requirements are implemented (and controlled)" (CEPS, KU Leuven & JRC, 2013). We therefore encourage its implementation since the stronger the greening component, the better it is for the sustainable use and management of the land. We regret that the most ambitious greening measures were removed by the European Parliament and the Council during the 2013 CAP negotiations. We recommend the application, strengthening and continuous inspection of this scheme as it is rolled out and adopted by all Member States.

g) Coupled payment

The coupled payment allows Member States to take action in favour of specific agricultural sectors. As this scheme is flexible and must be adapted to suit each national context, we cannot recommend specific action. However, we would invite the EC and Member States to support small farms as they are discriminated by the general principle of the CAP. The coupled payments have the great advantage of being linked to production, requiring farmers to produce, which is not the case for the decoupled payment. We recommend using coupled payments to strengthen sectors in difficulty. A particular sector to support would be horticulture and vegetables as this sector is labour intensive, uses relatively few hectares, and sells often through local markets. Animal rearing is also labour intensive and could create numerous jobs in rural areas.

As a final point we wish to note that only 'active farmers' are eligible to benefit from the above schemes. In 2013, this essential and delicate art has been left to the free will of the Member States, with only a broad strokes framing set by the EU³¹. While a number of Member States have chosen to set the exemption threshold (the level at which farmers are eligible to receive DPs) below the maximum of EUR 5,000 put forward by the EC, not all have done so³². This generates a concerning situation, particularly in the NMS, whereby the smallest producers are excluded from receiving Direct Payments.

We recommend the European Commission and Member States to adopt a definition of an active farmer which is clearly anchored in the notion of work on the farm. The definition must allow real farmers, even the smallest ones, to benefit from the Direct Payment. The exemption threshold should be set much lower than EUR 5,000.

4.2. Recommendation on the EU Environmental Framework

We argue that land should be a matter for EU environmental policy (Potošnik, 2014). However, until now, with the exception of the ongoing 'Land as a Resource' process, the DG Environment has been shy on the question of land and whether it can be an issue of shared competence. We argue that the EU should develop an Environmental Framework and offer some guiding principles for its development in order to tackle some of the drivers and impacts of farmland grabbing in the EU.

There are two principal reasons why the further development³³ of an EU environmental framework is appropriate and necessary.

First, land, as air or water, is a transnational resource within the internal market. Land degradation in one country will likely have spill over effects and affect others, at least indirectly, and should thus be tackled from a shared approach to sound environmental stewardship.

Second, land cannot be considered simply as an ordinary commodity. As a representative from DG Environment, Mr. Jacques Delsalle (2014), has argued, land is "a natural capital" supporting "a resource-efficient, green and competitive low-carbon economy". It is also a finite resource, subject to competing uses and conflicting interests. Given the key role that land and decisions around land use and practices play in securing

³¹ The Commission has set up some safeguards (negative definition): "In order to iron out a number of legal loopholes which have enabled a limited number of companies, whose primary business activity is not agriculture, to claim direct payments, the reform tightens the rule on active farmers. A new negative list of professional business activities to which MS will not grant direct payments, unless they can show that they have genuine farming activity, has been introduced" (DG Agriculture, 2013c). The negative list can be found in the article 9 of the Regulation (EU) 1307/2013 of 17 December 2013: "No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, who operate airports, railway services, waterworks, real estate services, permanent sport and recreational grounds."

³² The EC (DG Agriculture, 2013c) stipulates that "The active farmer clause does not apply to those receiving less than a certain amount of direct payments to be set by MS but no higher than €5,000". Most MS have set their exemption thresholds to the highest level of EUR 5,000 except for BE-FI (0), NL (1), LU (100), FR (200), MT (250), LT (500), BE-Wa (350), AT, ES and IT-except mountains (1 250), SK (2 000), BG (3 000)(EC, 2014a:23).

³³ We note here that there are already a number of EU and international governance instruments which have informed EU and Member States' environmental action plans, including the 2011 Road Map for a Resource-Efficient Europe (COM (2011) 571), the 7th Environmental Action Programme (Decision No. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013), the United Nations Climate Change Conventions, the Rio+20 Declaration and the FAO Voluntary Guidelines on the Responsible Governance of Tenure amongst others.

green growth and delivering essential environmental public goods, land should be a matter of EU environmental regulation.

Following from this, we encourage the further evolution of the 'Land as a Resource' process as a basis for regulating the land market and land use within the EU.

From an agri-environmental perspective, there are a number of important pointers for how land should be governed to tackle land degradation arising from farmland grabbing.

We argue that the agricultural sector should be able to guarantee a use of the land that respects the environment and ecosystems while also creating employment and vibrant rural areas. A sustainable model of agriculture (green and anchored in local, social and ecological realities) is a possible and credible answer to land degradation, land scarcity and land waste in the European Union. This would exist if there is a better recognition and support to the environmental practices of farmers. The CAP's new Greening policies offer promising opportunities in this regard (Chapter 4.1.2.).

We argue that the agricultural sector, framed by agro-ecological practices, would maximise the net socio-economic benefits of land use, without degrading its natural capital. Here, we note that the economic pressures unleashed by processes of farmland concentration and farmland grabbing have conspired to reinforce an unequal access to land within the agricultural sector between industrial farms and traditional, small or agro-ecological farms. The EU's Renewable Energy Directive, while ostensibly geared towards laudable environmental and sustainability goals, has in practice been much criticised in this regard (FIAN, 2008) for the competition it generates between energy and food production and the displacement effects that result from this (Chapter 2.3.3.).

Given this, we recommend the EU to drop its agrofuel targets which, while grounded in commendable environmental concerns, have had adverse impacts on Europe's small farming and organic sector.

We thus attest to a tension between competing land use, increasing land demand and land as a finite, fragile natural resource in the European Union. We support the regulation of land from the perspective of an EU Environmental Framework as some of the same drivers as those of farmland grabbing (unequal access to and control over natural resources, and the concentration of lands by those practising an industrial agricultural model), are degrading land as a natural resource.

4.3. Recommendation on Territorial Policy

The recent EU agenda on Territorial Policy is derived from the EU's Cohesion Policy which has been in place since the Treaty of Lisbon. It is a new policy, still subject to further review and elaboration to which we want to shortly contribute.

A number of EU policy papers frame the objectives of this agenda, amongst which perhaps the important is the Territorial Agenda for the European Union 2020. Following this paper,

rural areas are very heterogeneous, with some facing severe depopulation, a lack of job creation, public services and an attractive living environment³⁴.

We argue that there is a clear link between the underdevelopment and marginalisation of some rural areas in Europe and processes of farmland grabbing as there is often an overlay between farmland grabbing, rural poverty, regressive public spending, and the general neglect of rural areas (see also Chapter 2.3.4.).

Effective strategies to counter farmland grabbing must therefore adopt a holistic approach to development³⁵ that takes into account the economic, social, environmental and cultural impacts of policies in a territory. As has been underlined in *The Territorial State and Perspectives of the European Union* (EU, 2011b, p.75), “the spatial concentration of disadvantaged and vulnerable people means that social policies need a territorial dimension”. There is a need to build “strong local capacities” and put in place a strategy which “supports the safeguarding and sustainable utilization of this territorial capital, the ecological functions and services it provides” (EU, 2011a).

In disadvantaged rural areas, this requires the development of rural infrastructure that would connect farmers to cities (for marketing and selling their products, economic and legal training, innovation, etc.). It requires a greater decentralisation of powers from capital-cities to the local regions in order to grow vibrant rural areas and safeguard the autonomy of regions and territories. And it requires strong spatial planning which can counteract processes of ‘land artificialisation’ and ensure that the best arable land remains in the agricultural sector in order to overcome barriers to entry for young and aspiring farmers.

Above all, it means that controlling and stopping farmland grabbing requires integrating rural areas into wider territorial strategies and development plans. The agricultural sector must not be perceived as disconnected from national development goals but be fully embedded within broader economic, social, environmental and cultural frameworks. Agriculture and rural areas make vital contributions to a country’s wealth: they are essential for producing food, protecting landscapes and air quality, and safeguarding cultural and natural heritage. In this sense, territories are not commodities that can be bought or sold.

We recommend that the Territorial Policy of the European Union should take into account the diversity and the richness of rural areas and integrate marginal rural areas into broader development strategies that strive towards a balanced territorial development, both between the economic, social, environmental and cultural functions of a territory and between urban and rural spaces.

4.4. Recommendation on the Internal Market

The rules governing the functioning of the internal market are the main legislative vehicle through which land transactions in the EU and among its Members States are regulated. Within the internal market, land is a commodity which can be bought by any EU citizen or EU company without discrimination. As Article 26, of the TFEU makes clear,

³⁴ European Union (2011a), *Territorial Agenda of the European Union 2020: Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions*, point 28.

³⁵ *Tenure Guidelines*, 3B5: “Holistic and sustainable approach: recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration.”

the internal market shall comprise “an area without internal frontiers in which the free movements of goods, persons, services and capital is ensured in accordance with the provision of the Treaties”.

The buying, renting or selling of farmland touches on each of these freedoms: “Investment implies the acquisition of fixed assets such as housing, agricultural land and forests. Without free movement of capital there cannot be free movement of labour or enterprise. Free movement of enterprises means that farmers from elsewhere in the EU must be able to establish themselves in the new Member States, and they must be able to acquire and invest in farms.” (FAO, 2006).

The principle of the free movement of capital is of particular importance when one looks at the land market in Europe as it allows citizens and companies from one EU country to invest in other EU Member States. Indeed, as land is immovable, capital flow is needed to buy a piece of land within the internal market. This has been affirmed by the European Court: “the right to acquire, use or dispose of immovable property on the territory of another Member State, which is the corollary of freedom of establishment (Case 305/87 Commission v Greece [1989] ECR 1461, paragraph 22), generates capital movements when it is exercised”³⁶. In this sense, the free movement of capital knows few exceptions and its direct effect is approved³⁷.

Nonetheless, restrictions to the free movement of capital exist and may be justified on the basis of article 65 of the TFEU:

“The provisions of Article 63 shall be without prejudice to the right of Member States:

(a) [...]

(b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.”

This article has been elaborated and clarified by the European Court of Justice (CJ) as follows: “Whilst that measure restricts, by its very purpose, the free movement of capital, such a restriction may nevertheless be permitted if, as in the system in question, the national rules pursue, in a non-discriminatory way, an objective in the public interest and if they observe the principle of proportionality, that is if the same result could not be achieved by other less restrictive measures”³⁸. We can observe in this interpretation by the CJ that the general rule that applies is: “no restriction”, and that the restriction is an exception which must conform to principles of proportionality and of subsidiarity. “The only restrictions that could be tolerated are ones that apply equally in a non-discriminatory manner to citizens of, and enterprises registered in, the country applying them, and not just to those from other EU countries. In any case, such restrictions are likely to receive approval only in very exceptional circumstances” (FAO, 2006). Indeed, the CJ is particularly strict when it comes to an appreciation for the proportionality of such measures. Under this rule, the content and form of the action must be in keeping

³⁶ CJ, 5 March 2002, Reisch, C-515/99, pt. 29.

³⁷ CJ, 5 February 1963, Van Gend & Loos, 26/62.

³⁸ Ibid.

with the aim pursued and be limited to what is necessary to achieve the objectives of the Treaty.

Table 5. Restrictions of the principle of free movement of capital

Objective	Restriction
<ul style="list-style-type: none"> - to prevent land speculation - to preserve traditional forms of farming - to ensure that land is mainly farmed by the owners - to encourage a reasonable use of the land - to maintain a permanent population independent of the tourist sector 	<ul style="list-style-type: none"> - prior authorisation - self-farming obligations - qualifications in farming - pre-emption rights in favour of farmers - residence requirements - prohibition on selling to legal persons - acquisition caps - privileges in favour of local acquirers - conditions of reciprocity

Source: Wiedmann, T. (2014).

However, as paragraph 1.7 of the EESC Opinion (2015) on land grabbing argues, “Land is no ordinary commodity which can simply be manufactured in larger quantities. Given that the supply of land is finite, the usual market rules should not apply. Ownership of land and land use must be subject to greater regulation.” Furthermore, “The EESC therefore calls on the European Parliament and the Council to discuss whether the free movement of capital in respect of the alienation and acquisition of agricultural land and agribusinesses should be guaranteed, particularly in relation to third countries, but also within the EU”³⁹ (EESC 2015, 1.9).

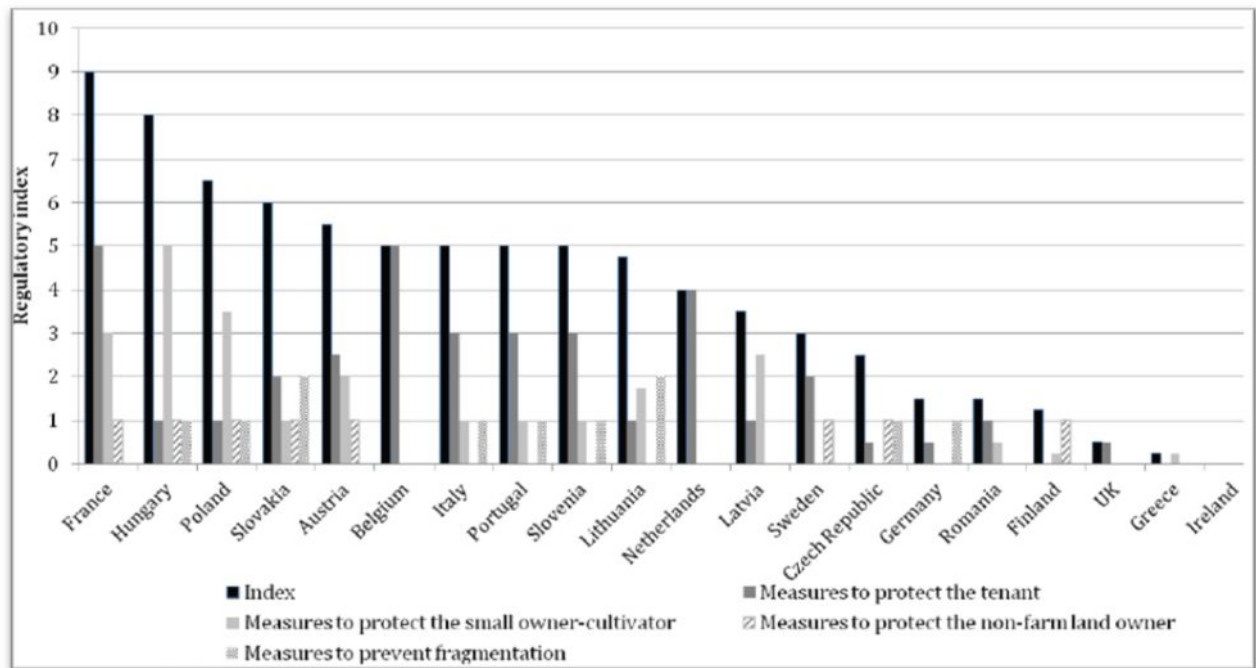
We recommend allowing the Member States to regulate farmland investments, and call on the Court of Justice to show more flexibility in its interpretation of national measures that can be undertaken to restrict the free movement of capital according to justifiable political objectives. A land market based only on the four freedoms is not comprehensive enough to tackle the risk of discrimination and marginalisation related to farmland grabbing and the access to, use of, and control over farmland.

Following Thomas Wiedmann (2014) from DG Trade, the following objectives may justify a restriction of the principle of the free movement of capital. These have been transposed into a number of interesting policy options which Member States may choose to take advantage of (Table 5).

³⁹ EESC (2015), paragraph 1.9.

We will not go into detail here regarding all these restrictions to the free functioning of the internal market which are technical, complex and numerous (Sparkes, 2007) and which have been ably documented elsewhere⁴⁰. The important point to note is that in practice, many Member States have adopted regulatory measures limiting the free movement of capital with respect to their land markets and agricultural sectors (Figure 7).

Figure 7. Total regulatory indicator (TRI) and its components



Source: Swinnen, Van Herck, and Vranken (2013).

Instead we would like to focus our policy recommendations by highlighting a number of illustrative cases of positive measures Member States are taking to regulate their land markets in order to correct market distortions and pursue more equitable and sustainable agrarian structures.

In France, for example the Sociétés d'Aménagement Foncier et d'Établissement Rural (SAFERs) are in charge of regulating all land sales that occur in their local authority. SAFERs must be notified of and have the power to approve or reject all land sales in their jurisdictional domain. SAFERs have a specific mission to support the settlement of farmers, especially young farmers, and to ensure transparency and the proper functioning of the rural land markets (Ciaian, P. et al., 2012a). If the land sale does not respect SAFERs mission objectives (e.g. if there is reason to suspect speculative objectives, the plot size is too large, or the sale does not meet certain environmental criteria), the SAFER can exercise its pre-emptive right to block the sale and find another suitable arrangement. The SAFERs can thus act as a useful tool to stop land concentration and speculation and to afford priority access to land for young, aspiring and small farmers.

In Germany, there are a number of interesting legal provisions for regulating the national land market. According to the Law on the Sale of Agricultural Land for instance, each land

⁴⁰ See: Sparkes (2007); Ciaian, P., D. Kancs, J. Swinnen, K. Van Herck and L. Vranken (2012a and 2012b).

sales transaction above a certain minimum size - which varies from federal state to state - must be approved by the regulatory authority. Transfers can be denied if they entail an 'unhealthy distribution of land' (Herre, R., 2013). This authority also oversees the fulfillment of various pre-emptive rights according to a number of objectives including natural preservation, the inefficient allocation of agricultural land, suspicions regarding speculation, and the priority right of a neighbouring farmer to land over a non-farmer in cases of land consolidation (Ciaian, P. et al., 2012a). The related Law on Land Leases contains similar provisions, with regulatory authorities having the power to block a land lease if it implies an 'unhealthy accumulation' of land (Herre, R., 2013).

Inspiration can also be drawn from civil society led initiatives such as the European Network on Access to Land 'Terre de Liens'. 'Terre de Liens' was set up 10 years ago as a citizen's initiative for those who are committed to the maintenance of family farming and local food and agricultural production in Europe. It collects savings and gifts from citizens to buy agricultural land and farm buildings that are then leased to small, organic, or new farmers for a minimum amount of time. 'Terre de Liens' also assists family farmers who are struggling to stay in agriculture by helping to stabilise their situation. In France, €36 million has been collected from around 10,000 people through this initiative, allowing for the purchase of 2,600 ha of farmland (Rioufol, V., 2014).

In sum, it cannot be argued that markets naturally tend towards concentration. We recommend that Member States must be allowed to regulate their land markets and restrict the free movement of capital in order to counter land concentration and farmland grabbing. There are a number of policy options that Member States may consider in this respect, including setting upper limits for the acquisition of agricultural land and to create a system of pre-emptive rights to help those whose landed property is below this upper limit. Member States should also support the use of land sharing arrangements and land banks which support access to land for small, young, and aspiring farmers.

4.5. An EU land framework without any EU land policy?

The multiplication of EU policies which shape the land market in the European Union lead us to pose the following questions: "Is there an EU land law? Is there an EU land policy? Or is there at least an EU land framework?"

According to a strict interpretation of the EU Treaty, there is no competence of the EU on land, neither exclusive nor shared (Part 1, Title 1 of the TFEU). Land, as a territory, remains in the hands of the Member States for whom this issue is directly linked to national sovereignty. However, our observations regarding the workings of various EU frameworks show that these frameworks exert a substantial influence over land in the EU depending on whether land is considered as a commodity (subject to rules governing the internal market), as natural capital (subject to environmental policy), as farmland (subject to CAP regulations) or as a living space (subject to Territorial Cohesion policy). We argue that, taken together, these sectorial policies amount to a de facto EU land framework.

What can we deduce regarding the nature of such a framework? Sparkes (2007) provides a powerful analysis of the way in which the EU is drawing together the national property systems and finds key elements that are shaping a so-called European land law. He underlines that in the EU system, land is considered first and foremost as a commodity. He stresses that the four freedoms enshrined in the functioning of the internal market (free movements of goods, persons, services and capital) appear to be at least

equal in value to a human rights based approach to land governance: “these freedoms are often said to be “fundamental”, a strange expression of priorities when compared to core human rights such as respect for life and freedom from arbitrary arrest” (ibid.). The nature of the EU land framework is, consequently, a market-based model for land management anchored in strong notions of private property rights.

This implicit EU land framework is reflected in the use of a number of instruments for the administration of land tenure at EU level, principal amongst which is the cadastre which is considered under the Permanent Committee on Cadastre in the European Union established in 2002⁴¹. The question of the cadastre is a crucial step for allocating and controlling, and then buying, selling or renting lands. A cadastre is able to create a high degree of legal certainty with regards to land tenure. However, it remains a technical instrument to facilitate the smooth operation of the land market and to secure tenure and investor rights. As such it does not say anything regarding the substantive nature of a land transfer and whether such a transfer is justified on social equity and environmental grounds.

There are several other statistical tools that gather data and information on land tenure at EU level: the Farm Accountancy Data Network (FADN), the survey of the agricultural structure, and the Integrated Administration and Control System (IACS). However, it should be stressed that this is not their stated purpose. Indeed, land tenure data are collected almost incidentally as a “... by-product of collecting other information about agricultural production for use in the Common Agricultural Policy (CAP). [...] The information generated by these three tools can also be used in other contexts than the CAP, including the monitoring of land tenure trends and the development of land tenure policy” (FAO, 2006).

Given the absolutely vital role that accurate and comprehensive data on land ownership, land distribution and land tenure patterns play in addressing farmland grabbing, the development of such a tool, which must extend beyond a cadastre to collect many other salient criteria, should be a matter of urgent attention. As illustrated in Chapter 1, accurate and useful data on the extent of farmland grabbing in the EU are still sorely lacking. This is also true for associated processes such as the degree of financial involvement in land and the agricultural sector where latent threats go unchecked. As Van der Ploeg, J. et al. (forthcoming) comment, “There is not even a monitoring system in place to provide an early warning. What happens in the land markets is, as argued earlier, largely invisible”.

As such, we recommend developing new data collecting instruments on patterns of land tenure in Europe, with data concerning land use, social characteristics of the land owner or leaser, the relationship of the land owner to the land etc. The creation of a European Observatory, as proposed by the Peasant’s Trade Union amongst others, that would document shifts in land ownership and include important economic, social and environmental criteria could be an important step towards developing a truly pan-European and socially relevant database on the state of the land in Europe today.

As a final point, we wish to comment on the de facto EU land framework which is informed by the four sectorial policies outlined in the preceding sections and which largely considers land in the EU purely as a commodity, best governed through a market-based regulatory approach. We perceive a danger here as processes of farmland grabbing underway in the

⁴¹ <http://www.eurocadastre.org/>; http://www.eurocadastre.org/pdf/Statutes_pcc.pdf

EU today illustrate that there are real political, social, cultural and environmental dimensions associated with land that must be brought to the fore if farmland grabbing is to be addressed.

A different approach to land governance in the EU is needed. Europe is believed to be a showcase of good land governance, where good land governance is essentially a technical matter. We argue however that land can never be understood simply as a technical matter but as an issue of fundamental human rights concern. The main problem related to the tenure of farmland in the EU is a lack of access to land by small-scale farmers and prospective farmers. The EU land framework that we have highlighted creates discrimination against non-industrial agricultural enterprises and peasant farming. It concentrates lands and holdings and, in the end, it encourages farmland grabbing in the most marginalised rural areas of Europe.

- For this reason, we recommend adopting a clear political orientation at the EU level on land. This would involve moving beyond a purely technical and market-based approach to land governance as the distortions observed in the EU land market (high degree of farmland concentration; dramatic levels of rural flight, agricultural decline and the exit of small farmers; and creeping processes of farmland grabbing) hinder the well-functioning of market mechanisms and the restitution of expected welfare. These tendencies are a call for changing the direction of land governance in the EU. This could be done through the crafting of a new legal instrument at EU level which would aim at a comprehensive, holistic and human rights based approach to land governance in the EU. This could take the form of an EC Recommendation on Land, to be implemented through a series of EU Directives based on the four horizontal frameworks (Internal Market, Agriculture, Environment and Territorial Cohesion) at which regulation at EU level is possible. This would set out a bold and progressive strategy for the governance of (farm)land in the EU while offering Member States sufficient room for manoeuvre and flexibility in interpretation.

4.6. Conclusion: For the implementation of the Tenure Guidelines in Europe

What should guide the development and orientation of such an EC Recommendation on Land? We argue here that the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (hereafter referred to as the Tenure Guidelines or TGs) can inspire and serve as an important reference point.⁴²

Indeed, the preface of the TGs explicitly states that “the purpose of these Voluntary Guidelines is to serve as a reference and to provide guidance to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all and to support the realisation of the right to adequate food in the context of national food security”. Furthermore, as paragraph 2.4 of the TGs makes clear, the TGs are “global in scope”, meaning that they apply just as much to countries within the EU as they do to the rest of the world.

There are three principal reasons why the TGs should serve as a practical guide for reforming European land governance:

⁴² This chapter draws in particular on the analysis developed by Guffens, C., Kroff, F., and Seufert, P. (2013) to be found in Franco, J.C. and Borras, S.M. (eds.), Land concentration, land grabbing and people’s struggles in Europe, Amsterdam, Transnational Institute, pp.222-233.

First, they were developed through an inclusive and legitimate consultative process that involved the participation of a wide variety of stakeholders, including those most affected by hunger and a lack of access to land. Second, the TGs are anchored in the human rights framework and are as such, the first international governance instrument to apply an economic, social and cultural rights based approach to matters of tenure. Third, they adopt a holistic and sustainable approach to the governance of natural resources and therefore consider the multiple dimensions and values of land⁴³.

Following on from this general framework, there are a number of specific provisions in the TGs which are relevant when it comes to tackling farmland grabbing and associated burning land issues in the EU today.

The TGs note that there are "...risks that could arise from large-scale transactions in tenure rights" (12.6). They outline a number of safeguards that States can implement to minimise these risks, including "ceilings on permissible land transactions and regulating how transfers exceeding a certain scale should be approved, such as by parliamentary approval" (12.6) as well as the use of "prior independent assessments on the potential positive and negative impacts that those investments could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment" (12.10). Furthermore, the TGs call on States to promote "a range of production and investment models that do not result in the large-scale transfer of tenure rights to investors, and should encourage partnerships with local tenure right holders" (12.6)

If the Guidelines underline many responsibilities of States, non-state actors including business enterprises also have responsibility to respect human rights and legitimate tenure rights (3.2). Among other measures, "Business enterprises should identify and assess any actual or potential impacts on human rights and legitimate tenure rights in which they may be involved". This would be facilitated if clear systems of accountability (Principle 3B9), transparency (Principle 3B8) and the rule of law (Principle 3B7) are established in Member States' territories.

The Tenure Guidelines also provide essential guidance on how to regulate land markets and investments, which are critical elements for the development of an EU land framework to stop and control farmland grabbing.

Paragraph 11.2 of the TGs argues that "States should take measures to prevent undesirable impacts on local communities [...] and vulnerable groups that may arise from, inter alia, land speculation, land concentration and abuse of customary form of tenure". Moreover, the TGs comment that "States and other parties should recognize that values, such as social, cultural and environmental values, are not always well served by unregulated markets". This offers a clear mandate for States to take action to regulate their land markets, for instance along the lines we outline in Chapter 4.4.

Regarding investment in land, the Tenure Guidelines (12.4) offer a clear definition of responsible investment which is crucial in this regard:

⁴³ TG, paragraph 3B5 elaborates that a holistic and sustainable approach "...recognizes that natural resources and their uses are interconnected, and adopts an integrated and sustainable approach to their administration".

“Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights [...] They should strive to further contribute to policy objectives, such as poverty eradication; food security and sustainable use of land, fisheries and forests; support local communities; contribute to rural development; promote and secure local food production systems; enhance social and economic sustainable development; create employment; diversify livelihoods; provide benefits to the country and its people, including the poor and most vulnerable; and comply with national laws and international core labour standards as well as, when applicable, obligations related to standards of the International Labour Organization.”

As Chapter 3 on the impacts of farmland grabbing and related processes has outlined, many of those types of investments should not be allowed to go ahead under this definition of responsible investment.

In stark contrast to the drive to privatise and homogenise the use and management of natural resources observed through processes of farmland concentration and farmland grabbing, the TGs call on States and non-state actors to recognise a “variety of farming systems” (12.1), a “range of production and investment models” (12.6), and a “range of tenure rights and right holders” (8.8.). This offers some interesting perspectives with regards to the development of an EU land framework. Many lands are owned by public bodies in the European Union. Rather than promoting the blanket privatisation of these lands, the TGs call upon States to “determine the use and control of these resources in light of broader social, economic and environmental objectives” (8.1). In light of the marginalization of Europe’s poor and small farmers and the significant barriers to entry of prospective farmers, the use and allocation of public land should be beneficial to them. Furthermore, the Guidelines remind States that there are various forms of tenure rights that can be allocated on public land, ranging from limited use to full ownership (8.8), thereby supporting land sharing arrangements which are beneficial to young farmers and those without much capital

This goes hand in hand with the a balanced approach to territorial development in order to counteract process of ‘land artificialisation’ described in Chapters 2 and 3. When it comes to territorial policy and to spatial planning, the Guidelines specify that authorities need “to strive towards reconciling and prioritizing public, community and private interests and accommodate the requirements for various uses, such as rural, agricultural, nomadic, urban and environmental” (20.3). States should also recognize the “need to promote diversified sustainable management of land, fisheries and forests, including agro-ecological approaches” (20.5).

Finally, the participation in decision-making processes around land by those most affected is essential. The TGs offer a clear orientation in this regard under the overarching Principle of Consultation and Participation (3B6) which involves “engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes”. The TGs furthermore recommend States to set up or use existing platforms at local, national and regional levels to collaborate in the the implementation of the Guidelines, monitor their use, and evaluate their impact on improved governance of tenure of land, fisheries and forests (26.2).

- We recommend using the ‘Tenure Guidelines’ for improving land governance in the European Union and informing the development of an EC Recommendation on Land. Implementation of the Tenure Guidelines must take into account the competences of the EU and of the Member States.

To conclude, the Tenure Guidelines are an important tool for reforming land governance in the EU. While Europe is often considered as a showcase of sound land governance, this study has demonstrated the existence of major problems around the access, use of, and control over farmland in Europe today. The adoption by public authorities of simple, technical market tools is unable to address the fundamental challenges that farmland grabbing and associated processes raise for European society as a whole. Considering the importance of the European Union in the international arena and the particular role it plays in global development, we urge the EU to lead by example and adopt the most ambitious model of land governance. The implementation of the Tenure Guidelines, and respect for their spirit and principles, may lead the way for a democratic, sustainable and smart land governance that European farmers and citizens deserve.

REFERENCES

Official regulation:

At European Union Level

- Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013
- Treaty on the Functioning of the European Union, 2007
- Treaty on the European Union, 2007

At International level

- International Covenant on Economic, Social and Cultural Rights, (1966/entry into force 3 January 1976), United Nations
- United Nations Universal Declaration of Human Rights, 10 December 1948
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2012, FAO

Academic and institutional documents:

- Agrosynergie (2013), Evaluation of the structural effect of Direct Support, Report commissioned for the European Commission.
- Anderson, F. (2013), "Land struggles in Ireland: 'The land of Ireland for the people of Ireland'", in Franco, J.C. and Borrás, S.M. (eds.), Land concentration, land grabbing and people's struggles in Europe, Amsterdam, Transnational Institute, pp. 230-339.
- Aparicio, Marco, Manuel Flores, Arturo Landeros, Sara Mingorría, Delphine Ortega, and Enrique Tudela (2013), 'Access to Land and Struggles in Andalusia, Spain", in Franco, J.C. and Borrás, S.M. (eds.), Land concentration, land grabbing and people's struggles in Europe, Amsterdam, Transnational Institute, pp.36-65.
- Bodeanu, T. (2012), 'Daniel Constantin: Reprezentantii Agentiei Domeniilor Statului pot fi acuzati de neglijenta in serviciu' [online], Ziare, <http://www.ziare.com/daniel-constantin/ministrul-agriculturii/daniel-constantin-reprezentantii-agentiei-domeniilor-statului-pot-fi-acuzati-de-neglijenta-in-serviciu-1181006> [accessed 10 March, 2015].
- Bouniol, J. (2013), 'Scramble for Land in Romania Jeopardizes Rural Territories Development.', in Franco, J.C. and Borrás, S.M. (eds.), Land concentration, land grabbing and people's struggles in Europe, Amsterdam, Transnational Institute, pp.158-181.
- Blum, W. (2014), Potential and limits of sustainable intensification of agriculture, Vienna, Rise.
- Burgerné A. (1996), Magyarországi Földpiac. StatisztikaiSzemle, 415, quoted from Szábo, E. (2006), Land regulation in the European Union and in Hungary, Budapest, Agroinform Publishing House.
- Borrás, S., Franco, J., Van der Ploeg, J. (2013), 'Land concentration, land grabbing and people's struggles in Europe: introduction to the collection of studies', in Franco,

- J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 6-30.
- Borras, S., Franco, J., Isakson, R., Levidow, L., Vervest, P. (2014), *Towards understanding the politics of flex crops and commodities: implications for research and policy advocacy*, Amsterdam, Transnational Institute.
 - CEPS, KU Leuven and JRC (2013), *Possible Effects on Land Market of new CAP Direct Payments*, Study for the European Parliament, PE 495.866.
 - Ciaian, P., Kancs, D., and Swinnen, J. (2010), 'EU Land Markets and the Common Agricultural Policy', Brussels, CEPS.
 - Ciaian, P. and D. Kancs, D. (2012) 'The Capitalization of Area Payments into Farmland Rents' *Canadian Journal of Agricultural Economics* 60: 517-540.
 - Ciaian, P., Kancs, D., Swinnen, J., Van Herck, K., Vranken, L. (2012a), 'Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries', Factor Markets Working Paper No. 14., Brussels, CEPS.
 - Ciaian, P., Kancs, D., Swinnen, J., Van Herck, K., Vranken, L. (2012b), 'Rental Market Regulations for Agricultural Land in EU Member States and Candidate Countries', Factor Markets Working Paper No. 15, Brussels, CEPS.
 - Cedeño, M. (2014), 'Responses to Climate Change Challenges on Food Production: strengthening resilience or increasing dependence', *Watch*, p. 46.
 - Chavas, J.-P. (2001), *Structural change in agricultural production: economics, technology and policy*. In: Gardner B. and Rauser G. (Eds.), *Handbook of Agricultural Economics*, Volume 1. Elsevier Science, B.V. Pages: 263 – 285.
 - Claros, E. (2013), 'Young Farmers in the European Union', *Library Statistical Spotlight*, Library of the European Parliament, 130460REV1.
 - Cotula, L. (2014), *Addressing the Human Rights Impacts of 'Land Grabbing'*, Study for the European Parliament, EXPO/B/DROI/2014/06, PE 534.984.
 - Delsalle, J. (2014), Presentation 'Communication on Land as a Resource', delivered at a Friends of the Earth Europe conference in Brussels, 24 November 2014.
 - Eco Ruralis (2015a), 'Bardeau Case', *Land Grabbing Fact Sheet No.1*. Romania, March 2015.
 - Eco Ruralis (2015b), 'Generali Case', *Land Grabbing Fact Sheet No.2*. Romania, March 2015.
 - Endres, A. (2015), 'Wettlauf um die ukrainische Schwarzerde' [online], *Zeit Online*, 16 March, <http://www.zeit.de/wirtschaft/2015-03/ukraine-landwirtschaft-schwarzerde-monsanto> [accessed 21 March, 2015].
 - European Commission (2008), *The functioning of the food supply chain and its effects on food prices*, Commission staff working document.
 - European Commission (2010a), COM (2010) 672 final, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future*, COM(2010) 672 final, 18 November 2010.
 - European Commission (2010b), *EU Farm Economics Overview FADN 2007*, Brussels, European Commission Directorate-General for Agriculture and Rural Development.

- European Commission (2011), SEC(2011) 1153 final/2, 'Impact assessment: Common Agricultural Policy towards 2020', Commission staff working document.
- European Commission, DG Agriculture (2013a), 'Structure and dynamics of EU farms: changes, trends and policy relevance', EU Agricultural Economics Briefs, Brief n°9.
- European Commission, DG Agriculture (2013b), Agriculture in the European Union, Statistical and economic information Report, pp.162-164.
- European Commission, DG Agriculture (2013c), 'Overview of CAP reform 2014-2020', Agricultural Policy Perspectives Brief, n°5.
- European Commission (2014a), The CAP towards 2020. Implementation of the new system of direct payments. MS notifications. Available at: http://ec.europa.eu/agriculture/direct-support/direct-payments/docs/implementation-ms-notifications-slides_en.pdf
- European Commission (2014b), Report on the distribution of direct aids to agricultural producers (financial year 2013).
- European Commission (2015), 'CAP expenditure in 2013 by MS', Member States Factsheet - European Union, Accessed via: http://ec.europa.eu/agriculture/statistics/factsheets/pdf/eu_en.pdf [2015-03-16]
- European Economic and Social Committee (2015), Land grabbing - a warning for Europe and a threat to family farming, Own initiative opinion.
- European Parliament (2010), Report on fair revenues for farmers: A better functioning food supply chain in Europe, Session document of Committee on Agriculture and Rural Development.
- European Parliament (2015), Parliamentary Questions 15 January 2015, E-000521/2015, Accessed via: <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2015-000521&language=EN>.
- European Union (2011a), Territorial Agenda of the European Union 2020: Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions.
- European Union (2011b), The Territorial State and Perspectives of the European Union, Background document for the Territorial Agenda of the European Union 2020.
- European Union (2012), Eurostat Pocketbooks: Agriculture, Fishery and Forestry Statistics, 2012 Edition, Luxembourg, European Union Publications.
- EUROSTAT (2011), Large farm statistics, Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Large_farm_statistics
- FAO (2006), European Union accession and land tenure data in Central and Eastern Europe, FAO Land Tenure Policy Paper.
- FIAN (2008), Position and Strategic Paper on Agrofuel, http://www.fian.be/IMG/pdf/agrofuels_positionpaper_2008.pdf
- Fidrich, R. (2013), 'The Return of the White Horse: Land Grabbing in Hungary', in Land Concentration, Land Grabbing and People's Struggles in Europe, edited by J. Franco and S. Borras, Amsterdam, Transnational Institute, pp. 138-157.
- Franco, J., Levidow, L., Fig, D., Goldfarb, L., Hönicke, M., Mendonça, M.L. (2010), 'Assumptions in the European Union Biofuels Policy: Frictions with Experiences in Germany, Brazil and Mozambique.', Journal of Peasant Studies 37(4), pp.661-698.

- Franco, J.C. and Borras, S.M. (eds.) (2013), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute.
- French Ministry of Agriculture (2014), *PAC 2014/2020 : comment assurer une redistribution vers l'élevage et l'emploi ?*; Online: http://agriculture.gouv.fr/IMG/pdf/Dossier_presentation_redistribution_PAC_cle81d57_e.pdf
- Friends of the Earth Europe (2012), *Farming Money. How European banks and private finance profit from food speculation and land grabs*, Brussels, Friends of the Earth Europe.
- Friends of the Earth Europe (2014), *Broken Food Chains. Why European food and farming needs to change*, Brussels, Friends of the Earth Europe.
- Gardner, B. (1996), *European Agriculture: Policies, Production, and Trade*, London, Routledge.
- GRAIN (2012), 'GRAIN releases data set with over 400 land grabs', [online], <http://www.grain.org/article/entries/4479-grain-releases-data-set-with-over-400-global-land-grabs> [accessed 17 March, 2015].
- Guffens, C., Kroff, F., and Seufert, P. (2013) 'The myth of good land and natural resource governance in Europe', in Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 222-233.
- Herre, R. (2013), 'Land concentration, land grabbing and options for change in Germany', Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 62-69.
- Immink, M., Kassim, M. and Haji Ramadhan, A., (2014), 'Facilitating right to Food Actions through an enabling Policy and legislative environment: the Zanzibar experience', *Watch*, p. 54
- Kilian, S., J. Anton, K. Salhofer, and N. Röder (2012), "Impact of 2003 CAP Reform on Land Rental Prices and Capitalization." *Land Use Policy* 29(4): 789-797.
- Land Matrix Global Observatory (2015), [online resource], Available at: <http://www.landmatrix.org>.
- Laurens, H. (2014), Presentation delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Levesque, R. (2014), Presentation 'Evolution of the farming production units in France and Europe' delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Matthews, A. (2015), 'Farmers share of food chain value added' [online], Accessed 9 May, 2015 via: <http://capreform.eu/farmers-share-of-food-chain-value-added/>.
- Medarov, G. (2013), 'Land concentration, land grabbing and land conflicts in Europe: The case of Boynitsa in Bulgaria', in Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 182-210.

- Michalek J., P. Ciaian, and D. Kanacs (forthcoming), "Capitalization of the Single Payment Scheme into Land Value: Generalized Propensity Score Evidence from EU." *Land Economics*.
- Molen (van der), P., 'Good administration of land in Europe', October 2004. [online: https://www.fig.net/pub/mexico/papers_eng/ts3_molen_eng.pdf]
- Monbiot, G. (2014), Presentation on CAP post 2020 delivered at the Oxford Farming Conference, 8 January 2015.
- Nurm, K. (2014), Presentation delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Ody, M. (2013), 'Land grabbing, Artificialisation and Concentration in France Today: Causes, Consequences and Challenges.', in Franco, J.C. and Borrás, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 32-35.
- Ploeger, H., Van Loenen, B. (2005), 'Harmonization of land registry in Europe', FIG Working Week.
- Potoń, J. (2014), EC for Environment, 'They ain't making it any more': managing our land sustainably', Conference 'Land as a resource', Brussels.
- Ramon i Sumoy, R. (2014), Presentation 'The CAP and Structural Change' delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Rioufol, V. (2014), Presentation 'European citizen based initiatives promoting access to land for ecological farmers' delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Sen, A. (2004), *L'économie est une science morale*, La Découverte, Paris.
- Sparkes, Peter (2007), *EU Land Law*, Hart Publishing.
- Srećković, M. (2013), 'Land Grabbing and Land Concentration in Europe: The Case of Serbia', in Franco, J.C. and Borrás, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 212-215.
- Swinnen, J. and Vranken, L. (2009), *Land & EU accession: Review of the transitional restrictions by new member states on the acquisition of agricultural real estate*, Brussels, CEPS.
- Van der Ploeg, J. (2014), Presentation 'The emergence of large, corporate agricultural enterprises', delivered at the Public Hearing on 'Land grabbing/Large-scale land acquisitions in Europe', organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Van der Ploeg, J., Franco, J.C., Borrás, S.M. (forthcoming), 'Land concentration and land grabbing in Europe: a preliminary analysis', *Canadian Journal of Development Studies*.
- Vander Stichele, M. and Young, B. (2009), *The Abuse of Supermarket Buyer Power in the EU Food Retail Sector. Preliminary Survey of Evidence.*, Amsterdam, AAI - Agribusiness Action Initiative.

- Van Herck, K., J.F.M. Swinnen and L. Vranken (2011), CAP direct payments and rent extraction by land owners: Evidence from New Member States, Mimeo.
- Von Braun, J. and Meinzen-Dick, R. (2009), “‘Land Grabbing’ by Foreign Investors in Developing Countries: Risks and Opportunities”, IFPRI Policy Brief 13, Washington, D.C.: IFPRI
- Wiedmann, T. (2014), Presentation ‘Land grabbing and freedom of investment’ delivered at the Public Hearing on ‘Land grabbing/Large-scale land acquisitions in Europe’, organised by the European Economic and Social Committee on 4th November, 2014, in Brussels.
- Ziegler, J. (2008) *La Haine de l’Occident*, Paris, Albin Michel.

Court of Justice of the European Union, Case Law:

- CJ, 5 February 1963, Van Gend & Loos, 26/62
- CJ, 5 March 2002, Reisch, C-515/99, pt. 29.

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **B** STRUCTURAL AND COHESION POLICIES

Role

The Policy Departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

-  Agriculture and Rural Development
-  Culture and Education
-  Fisheries
-  Regional Development
-  Transport and Tourism

Documents

Visit the European Parliament website:
<http://www.europarl.europa.eu/studies>

PHOTO CREDIT:
iStock International Inc., Image Source, Photodisk, Phovoir, Shutterstock



ISBN (978-92-823-7119-0 (paper) / 978-92-823-7118-3 (on line)
doi: 10.2861/32487 (paper) / 10.2861/686177 (on line)