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Sales Market Regulations for Agricultural Land in EU Member States and Candidate Countries

ABSTRACT

All agricultural markets are subjected to institutional regulations that – in one way or another – affect the functioning of these markets, and this is no different for the agricultural land market in the EU. In this paper, we describe the existing regulations in the sales markets for agricultural land in selected EU member states and candidate countries. The analysis focuses on three types of sales market regulations and institutions: quantity regulations, price regulations and transaction costs. The differences in the regulatory framework between land acquisition and ownership by domestic and foreign investors are analysed, as well as the taxes associated with land sales and ownership, zoning regulations and market imperfections.

FACTOR MARKETS Working Papers present work being conducted within the FACTOR MARKETS research project, which analyses and compares the functioning of factor markets for agriculture in the member states, candidate countries and the EU as a whole, with a view to stimulating reactions from other experts in the field. See the back cover for more information on the project. Unless otherwise indicated, the views expressed are attributable only to the authors in a personal capacity and not to any institution with which they are associated.

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**Pavel Ciaian, d'Artis Kancs, Jo Swinnen,
Kristine Van Herck and Liesbet Vranken***

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1. Introduction

All agricultural markets are subjected to institutional regulations that – in one way or another – affect the functioning of these markets and this is no different for the agricultural land market in the EU. In this paper, we describe the existing regulations in the sales markets for agricultural land in selected EU member states. In combination with Ciaian et al. (2012a), which describes regulations in the rental markets, this paper will be the basis for analysis in future work on land markets in the Factor Markets project.

In 2004 and 2007, ten and two countries respectively acceded to the EU in its enlargement with countries in Eastern and Central Europe. Until 1989, the agricultural sector in these countries was regulated by the state and dominated by large-scale state farms that cultivated state-owned land or by collective farms that typically used land that was still in private ownership on paper but over which the owners did not have any decision rights regarding its use or allocation. There were only two exceptions, Poland and the former Yugoslav countries, where collectivisation largely failed, such that a considerable share of agricultural land was already being used by individual farmers during the communist era (Lerman, 2001). After 1989, land reforms were introduced and land was restituted to the former owners or distributed among the workers of the state farms (Lerman et al., 2004). In addition, farm restructuring resulted in the introduction of hard budget constraints. The implementation of farm restructuring and land reform processes was difficult (Swinnen et al., 2006) and in some countries, land reforms are still not yet fully completed (Swinnen and Vranken, 2009; 2010). Since the history of collective land use has a long lasting impact on the current functioning of the land market and the region has undergone such radical changes in the past ten years, we have opted to make a distinction in this discussion between the regulations in old member states (OMS) and those in the new member states (NMS).¹

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The paper draws importantly on background information and comments provided by Eleni Kaditi (CEPS). The authors are solely responsible for the content of the paper. The views expressed are purely those of the authors and may not in any circumstances be regarded as stating an official position of the European Commission.

¹ The selected OMS in this study are Belgium, Germany, Ireland, Greece, Spain, France, Italy, the Netherlands, Finland, Sweden and the UK. The NMS are Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia. The selection of these countries is based on data availability.

Along with the selected EU member states (OMS and NMS), we also consider the situation in the agricultural land market of two candidate countries: the Former Yugoslav Republic of Macedonia (FYROM) and Turkey.

Efficient land transactions and a well-functioning land market play an important role in economic development and growth for several reasons (Deininger and Feder, 2001). First, they provide access to land for the farmers who are the most productive but who own less land than they require. Second, they allow the exchange of land as the off-farm labour market further develops. Third, they facilitate the use of land as collateral to access credit markets.

In general, agricultural land sales are considered superior to rentals as land sales transfer full ownership rights to the new user, the new owner can use the land as collateral to obtain credit and buying land provides optimal incentives for investment by entailing the security of rights (Binswanger et al., 1993).

In the EU, however, agricultural land sales only represent a small fraction of all land transactions, as in most countries rental contracts are much more important (see Ciaian et al., 2012a and 2012b for a more detailed discussion on the importance of rental contracts in the EU).

In the OMS, the share of agricultural land that is transacted each year is very small and ranges from 0.4% of the total utilised agricultural area (UAA) in Greece to 3% of the total UAA in the Netherlands (Table 1).

Table 1. Agricultural land sales as a % of the total UAA

Old member states				
	1998		2006	
Belgium	1.63		1.28*	
Finland	1.79		2.72	
France	1.03		0.99*	
Germany	0.58		0.58	
Greece	0.41		0.35*	
Ireland	3.04		2.90	
Italy	1.60		1.42*	
Netherlands	3.72		3.08	
Spain	0.52		0.62	
Sweden	0.63		0.62	
UK	3.60		1.64*	
New member states				
	1998–2001**		2005–06**	
	Total sales	Private sales	Total sales	Private sales
Bulgaria	0.34	n.a.	1.61	n.a.
Czech Republic	2.8	0.2	3.30*	1.47
Estonia	n.a.	n.a.	n.a.	1.1
Hungary	n.a.	n.a.	3.6	3.5
Latvia	n.a.	n.a.	n.a.	–
Lithuania	1.9	1.7	8.4	6.3
Poland	1.71	0.91	1.77	1.09
Romania	0.2	n.a.	0.43	n.a.
Slovakia	0.1	n.a.	0.14	n.a.

* Data from 2004

**Bulgaria: data for 1999 and 2006; Czech Republic: data for 1998 and 2005; Estonia: data for 2005, transacted arable land as a percentage of UAA; Hungary: data for 2006; Lithuania: number of sales and gifts, data for 2000 and 2006; Poland: data for 1998 and 2005; Romania: data for 1999 and 2005; Slovakia: data for 2001 and 2005

Sources: Ciaian et al. (2010) for the OMS; Swinnen and Vranken (2009; 2010) for the NMS.

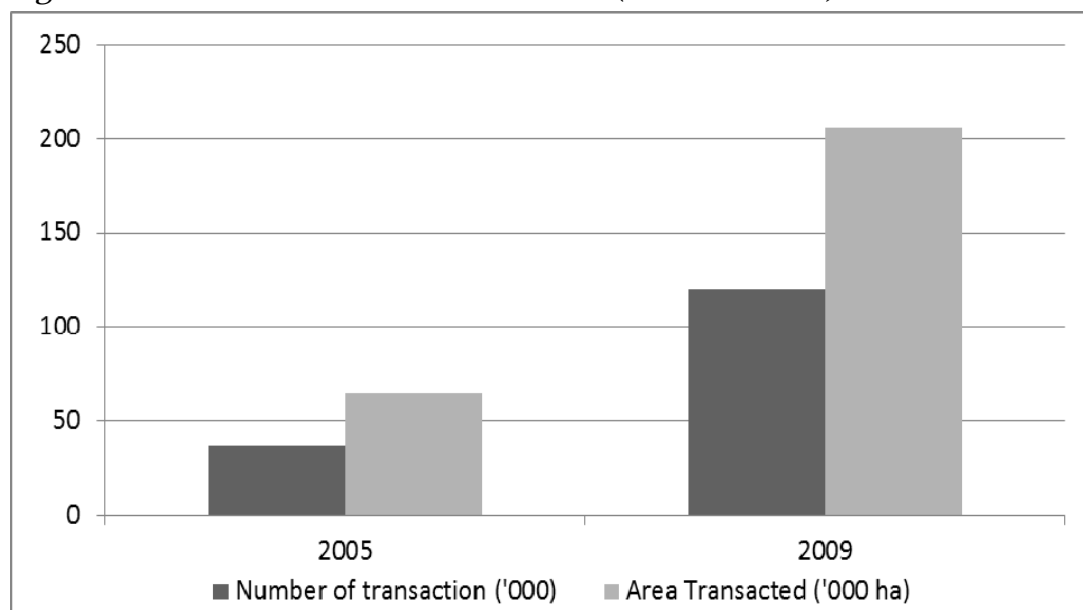
In the NMS, credit and capital market imperfections play a crucial role in the efficiency of the rural land market, especially for sales transactions. Capital market imperfections may hamper the efficiency of land sales and hence the overall performance of the agricultural market in several ways (Swinnen and Vranken, 2009; Ciaian and Swinnen, 2009; Van Herck et al., 2011). First, where capital markets work imperfectly, land purchases typically have to be financed from own resources. Second, where financial markets do not work well or where confidence in money as a repository is low, land may be acquired for speculative purposes (Binswanger et al., 1993). Third, land may be used as a hedge against inflation or as an investment asset in the absence of alternative investments or hedging options. Finally, with constrained access to credit, investment in land ties up much needed working and investment capital and thus prevents other farm investment, for example in irrigation, technology or quality inputs. Consequently, farmers typically combine land sales and rentals to increase farm size. Land acquired in ownership gives long-term security and is usually used for investments that require a large capital outlay and a long depreciation period, such as farmhouses and buildings. On the other hand, rental is used to adjust farm size in a flexible way to the prevailing factor ratios and market conditions (Vranken and Swinnen, 2006). All this might have important implications for the efficiency of the sales market for agricultural land.

Capital market imperfections in combination with the land reform process (see section 4.2), which restituted land to a large class of absentee landowners who are unlikely to sell their newly acquired land, resulted in a thin sales market for agricultural land in the NMS. Therefore, most land is transacted through rental contracts, just as in many OMS. For example in Romania, the total number of sales transactions is very low, reflecting important constraints in the functioning of the sales market for rural land. Between 1999 and 2005, only around 3.5% of the total utilised agricultural area was exchanged through sales. After 2005, when the institutional climate started to improve (reflected in an increased labour outflow from the agricultural sector) and direct payments largely increased as a result of EU accession,² both the number of land transactions as well as the area sold more than tripled between 2005 and 2009 (Figure 1) (Swinnen and Vranken, 2010).

We do not further discuss the sales market for agricultural land in great detail in this paper as evolutions within and differences among countries are covered in Ciaian et al. (2012c). Nevertheless, we have provided these limited data on the transacted area in this paper to enable the reader to put the findings on the institutional regulations in the sales market discussed in this study into perspective.

There are three types of sales market regulations and institutions that are discussed in the remainder of this paper: 1) quantity regulations, 2) price regulations and 3) transaction costs. Finally, we also briefly consider other regulations that do not specifically relate to the agricultural land market, but which have an impact on the sales market for agricultural land. Tables A1 and A2 in the appendix give an overview of the most important regulations and institutions affecting the sales market for agricultural land in the OMS and NMS respectively. For our analysis, this study draws heavily upon earlier work by Ciaian et al. (2010), Swinnen and Vranken (2009, 2010) and a questionnaire sent to the different partners in the Factor Markets project.

² EU accession and the adoption of the common agricultural policy have led to a significant increase in direct payments in the NMS through the introduction of the Single Area Payment Scheme (SAPS). The SAPS payments are area payments that affect the NMS land markets in various ways. They will not only drive up land demand directly (by subsidising land use), but in the presence of credit constraints they will also indirectly push up demand for land (by increasing productivity). In combination, these factors may lead to an even greater rise in land prices than would be observed in a market without credit constraints (Ciaian and Swinnen, 2009).

Figure 1. Land sales transactions in Romania (2005 and 2009)

Source: Swinnen and Vranken (2010).

2. Quantity regulations

In most countries, land transactions are free and unrestricted. Yet in some countries there are constraints on the amount of land that is transacted and transactions first need to be approved by a government agency. In addition, there are national provisions regarding the acquisition of agricultural land by foreign investors, especially in the NMS. These measures aim at protecting the traditional structure of the agricultural sector and preventing domestic investment from being crowded out by foreign investment. In this section, we look at differences in the regulatory framework between land acquisition and ownership by domestic and foreign investors.

2.1 Domestic investments

In most OMS and NMS, land transactions by domestic natural persons and legal entities are relatively free and unrestricted. But there are some countries where all land sales, including those by domestic natural persons and legal entities, must first be approved by a government institution (France, Germany and Sweden) or where there are restrictions on the maximum amount of owned land (Hungary and Lithuania).

In France, land sales regulation is overseen by the Sociétés d' Aménagement Foncier et d' Etablissement Rural (SAFERs).³ SAFERs are local authorities that have a specific mission to support the settlement of farmers (especially young farmers), land and farm consolidation and the transparency of the rural land markets (e.g. to intervene where there is suspicion of speculation). The local SAFER must be notified of each sale of agricultural land by the notary legalising the transaction. The SAFER then has two months to approve or reject the transaction. In all cases where the transaction does not fit the SAFER's mission objectives, the SAFER will undertake discussions with the seller and the buyer to try to reach a mutual agreement that better fits the SAFER's objectives. If no agreement is reached between the buyer, the seller and the SAFER, the SAFER can exercise a pre-emptive right. For example,

³ Indirectly, the Commission départementale d'orientation agricole (CDOA) is also involved in the agricultural land market in France. The CDOA is a NUTS3-level commission for agricultural guidance and should be consulted to obtain farming authorisation, which is a necessary prerequisite to farming in France.

the SAFER will exercise its pre-emptive right if there are environmental objectives or reason to expect that there are speculative objectives (the price is too high or too low) or the plot size is too large (SAFER seeks to limit farm enlargement). The SAFER then tries to find another arrangement that better fits the SAFER's objectives, e.g. to sell the land to another buyer or to rent it out. Overall, the number of interventions by SAFER is relatively low: for example, in the NUTS2 region Bretagne, SAFER only intervened in 10% of the transactions in 2007 and in only 15% of the interventions did SAFER exercise its pre-emptive right, while the rest of the cases were resolved amicably.

In Germany, the Law on the Sale of Agricultural Land regulates the procedure for land sales transactions and each sale of land larger than a certain minimum size, which varies from federal state to state and needs to be approved by the regulatory authority or *Genehmigungsbehörde*.⁴ The regulatory authority examines whether there are pre-emptive rights on the given land and can object to the sale up to a month after it has been notified. For example, in the case of land consolidation, a neighbouring farmer has a pre-emptive right to buy the land compared with a non-farmer. In addition, there are also pre-emption rights according to the laws on natural preservation or to the forest laws that may apply. Other justifications of refusal can be an inefficient allocation of agricultural land or speculative suspicions (the price is too high or too low).

In Sweden, the agricultural land market was deregulated in the late 1980s and only a few restrictions remain. Generally, natural persons are allowed to purchase agricultural land without any restrictions, such as education or previous experience in the agricultural sector. In sparsely populated regions, however, purchasers of agricultural land need a permit. This permit is attributed based on education or previous experience (or both) and in some instances it is even required that the landowner lives on the property. Such a permit is also required for purchases by a legal entity.

In the Czech Republic, a pre-emptive right for purchases of state land is given to the following persons: farmers, landowners, partners in corporate farms, members of cooperatives and eligible persons from restitutions. The pre-emptive rights are frequently used when state land is privatised. Around 90% of all state land that was privatised in 2006 was bought by persons using their pre-emptive rights. This clearly illustrates that those who were able to rent land from the state at the beginning of the reform period – and for this the former managers of state and collective farms might have been in a better position – have been in an advantageous situation to acquire land in ownership even more than a decade after the start of the reforms.

In Poland, all sales transactions for agricultural land have to be reported to the agricultural property agency, which has a pre-emptive right. At the same time, it is worth noting that there are numerous exceptions to this rule.⁵ Moreover, up to now the agricultural property agency has exercised its right relatively rarely. Out of more than 270,000 cases concerning around 400,000 ha,⁶ it has exercised its pre-emptive right on 293 holdings covering around 6,500 ha. In addition, tenants have a pre-emptive right to purchase private land if it is for sale and if they have been renting it for at least three years.

In Hungary, legal restrictions prohibit land ownership by legal entities (both domestic and foreign). Resident legal persons and unincorporated organisations, with the exception of the

⁴ In the German federal state of Bavaria, the minimum plot size for which one needs approval from the regulatory authority is 2 ha, while it is 1 ha in Lower Saxony and 0.5 ha in Saxony.

⁵ For instance, pre-emptive purchase may not be applied to transactions made between close relatives or if transactions enlarge a family farm to an area not exceeding 300 ha and the purchaser is residing in the commune where the agricultural property is situated or in a neighbouring commune.

⁶ Private transactions reported to the ANR (the agricultural property agency in Warsaw) are of a very small size. On average, they amounted to just 1.5 ha. Some 80% of these transactions concerned holdings smaller than 1 ha. By contrast, there were only 600 transactions involving holdings larger than 50 ha.

Hungarian state, local governments and public organisations, may not acquire the title of ownership of arable land. Exceptions to this rule are church organisations with a legal personality that acquired land ownership titles by virtue of testamentary disposition or based on a contract of donation. A mortgage loan company may also acquire the ownership of arable land for a limited period. In addition, there is an upper limit (300 ha) on the amount of land that a domestic natural person can own.

In Lithuania, a legal entity may buy agricultural land only if its income from agricultural activities during the last two years constitutes at least 50% of its total income. There is also an upper limit (500 ha) on the amount of land that domestic natural persons or legal entities can own.

In other countries, there are restrictions regarding the subdivision and sale of a plot below a certain minimum size. For example, in Bulgaria, a law was introduced to prevent the excessive fragmentation of agricultural land, which states that a plot cannot have a separate ownership title if it is smaller than 0.3 ha (0.1 ha for vineyards and 0.2ha for pastures). In Turkey, the minimum size below which one cannot subdivide an agricultural plot is 0.1 ha.

Finally, in different countries tenant farmers have a pre-emptive right to buy the agricultural plot they are renting. Among other countries, this is the case in Belgium, Germany (applying also to a neighbouring farmer and a previous tenant), Italy and France.

2.2 Foreign investments

In the OMS, the restrictions on foreign ownership of agricultural land are less severe than in the NMS. Before EU accession, many NMS feared that when they opened their markets and integrated into the EU single market, farmers from the OMS – who are typically less capital-constrained than NMS farmers – would benefit from the opportunity to buy cheap agricultural land in the NMS, crowding out all investment opportunities for local farmers.

In general, there are no restrictions on foreigners buying agricultural land in the OMS, unless the plot is located in a ‘strategically sensitive’ area. For example, in Greece foreigners cannot own land that is designated as ‘border area’ without prior authorisation by the ministry of defence.

In the NMS, foreigners have been unable to purchase agricultural land during a transitional period of seven years after EU accession in Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Romania and Slovakia, and 12 years for Poland. There are differences among the countries in the implementation of these restrictions, for example in the way ‘foreigners’ are legally defined and in the conditions they must fulfil to (exceptionally) obtain agricultural land. These differences usually stem from the fact that the various restrictive regimes existing before accession were permitted to continue during the transitional period.

In the candidate countries, there are also legal restrictions on foreign ownership of agricultural land, which are to some extent comparable with the NMS. For example, in the FYROM, the restrictions are comparable with the NMS but they are much more stringent in Turkey.

Table 2 provides a summary of the legal restrictions on the acquisition of agricultural land in the NMS and the selected candidate countries.

Table 2. Legal restrictions on the acquisition of agricultural land in the NMS

	Can EU citizens buy agricultural land despite the restriction?	Can a legal entity buy agricultural land?	Can a legal entity that is registered in the country but owned by foreigners buy agricultural land?
Bulgaria	Yes, if they are self-employed agricultural producers who wish to settle in Bulgaria and are established	Yes	Yes
Czech Republic	Yes, <ul style="list-style-type: none"> • if married to a Czech citizen • if s/he has been staying and farming in the country for at least 3 years, then s/he can buy any parcel in the country 	Yes	Yes
Estonia	<i>Plots <10 ha:</i> Yes; no additional conditions must be fulfilled <i>Plots >10 ha:</i> Yes, <ul style="list-style-type: none"> • if married to an Estonian citizen • if s/he has been staying and farming in the country for at least 3 years, the particular plot s/he has been renting can be bought 	Yes	Yes
Hungary	Yes, <ul style="list-style-type: none"> • if married to a Hungarian citizen • if s/he has been staying and farming in the country for at least 3 years, the particular plot s/he has been renting can be bought 	No	No
Latvia	Yes, <ul style="list-style-type: none"> • if married to a Latvian citizen • if s/he has been staying and farming in the country for at least 3 years, the particular plot s/he has been renting can be bought 	Yes	Yes, if a minority of the shares are owned by foreigners

Table 2. (cont'd)

Lithuania	Yes, <ul style="list-style-type: none"> • if married to a Lithuanian citizen • if s/he has been staying and farming in the country for at least 3 years, then s/he can buy any parcel in the country 	Yes	Yes
Poland	<i>Plot <1 ha not located in border zones:</i> Yes, <ul style="list-style-type: none"> • if married to a Polish citizen an • if residing in Poland for at least 5 years <i>Other plots:</i> <ul style="list-style-type: none"> • if married to a Polish citizen, and • if s/he has been staying and farming in the country for at least 3 years, the particular plot s/he has been renting can be bought 	Yes	Yes, if a minority of the shares are owned by foreigners
Romania	Yes, if the person is an independent farmer who wants to establish a residence in Romania and can prove his/her ability to farm	Yes	Yes
Slovakia	Yes, <ul style="list-style-type: none"> • if married to a Slovakian citizen • if s/he has been staying and farming in the country for at least 3 years, the particular plot s/he has been renting can be bought 	Yes	Yes
FYROM	Yes, if the individual inherits the property	Yes	Yes
Turkey	No	No	No

Sources: Swinnen and Vranken (2010) for the NMS; and questionnaires received from partner countries for FYROM and Turkey.

In Bulgaria, there are restrictions on the acquisition of agricultural land by nationals of another EU member state, by nationals of the states that are part of the European Economic Area (EEA) and by legal persons from these regions.⁷ Yet there are two exceptions for those seeking to acquire agricultural real estate in Bulgaria. First, agricultural and forest land may be acquired by those citizens of the EU who are self-employed agricultural producers and who wish to settle and reside permanently in Bulgaria. They must be recorded in this capacity according to the procedure established by the BULSTAT Register Act. Second, legal entities are allowed to acquire and hold land without restrictions as long as they are registered in Bulgaria. The share of foreign participating capital does not matter. Non-resident foreigners can acquire agricultural and forest land if they establish or participate as shareholders in a legal entity.

In the Czech Republic, foreigners (both natural persons and legal entities based abroad) could not acquire agricultural land until 2011. There have nonetheless been some exceptions. First, foreigners have been able to acquire land if they have Czech citizenship or are married to a Czech citizen. In addition, foreigners have been able to acquire land through inheritance or through exercising pre-emptive rights that emerged from co-ownership. They have also been able to do so if the land could not be separated from another asset that is already owned by the foreigner or in exchange for domestic land. Finally, EU-citizen farmers have been able to acquire agricultural land if they are registered as self-employed farmers and if they have been permanently staying in the Czech Republic for at least three years. This means that natural persons permanently staying and farming for at least three years in the Czech Republic on rented land, as well as Czech legal entities combining Czech and foreign capital, have been eligible to buy private agricultural land. The farmers have had to prove their integrity, professional knowledge in farming and knowledge of the Czech language.

Since November 2010, however, the Czech government has eased the eligibility conditions for foreigners who want to buy private and state land. The requirement to stay permanently and to farm for at least three years in the Czech Republic and other conditions (professional knowledge of farming and knowledge of the Czech language) have been abolished. The only condition for the purchase of land is to be officially registered as a farmer.

In Estonia, foreigners generally could not acquire agricultural land until 2011. But here too there have been some exceptions.⁸ First, the law did not forbid foreigners from acquiring agricultural land if the plot of land was less than 10 ha. Second, restrictions on buying more than 10 ha were not fully applicable to an EU citizen who has permanently resided in Estonia for at least the last three years, who is a sole proprietor listed on an Estonian register and has been engaged in farming during at least the last three financial years. Nor did they fully apply to a legal entity that is listed on the Estonian commercial register or register of non-profit associations and foundations and that has been engaged in farming in Estonia during at least the last three financial years. The same pertained to subsidiaries of EU companies if the subsidiary is registered in Estonia. Third, if the person or the legal entity did not meet the requirements stated above, s/he has still been able to acquire land but only after receiving consent from the county governor. The decision to grant consent has been based on the business plan of the applicant for the use of the land and its accordance with agricultural and forestry requirements, the (financial) assets of the applicant and his/her experience in

⁷ Note for example that foreigners who inherit agricultural or forest land in Bulgaria are obliged to transfer their ownership rights to a resident natural person or a legal entity within three years after the start of the succession.

⁸ Note that any non-Estonian citizen or a legal person is prohibited from acquiring agricultural land in some specific regions (small islands and border areas):

- the sea islands, except Saaremaa, Hiiumaa, Muhu and Vormsi;
- the cities of Narva, Narva-Jõesuu and Sillamäe; and
- the rural municipalities of Alajõe, Iisaku, Illuka, Toila, Vaivara, Meeksi, Piirissaare, Mikitamäe, Orava, Räpina, Värskä, Meremäe, Misso and Vastseliina.

agricultural production and forestry. The governor has been able to give permission only if the applicant has been in Estonia for at least six months or has experience in agricultural production of at least one year.

In Hungary, foreigners (natural persons and legal entities) generally cannot acquire agricultural land. Again, there are exceptions to the restrictions. First, EU nationals who want to establish themselves as self-employed farmers and who have been legally staying and farming in Hungary continuously for at least three years are not subject to any rules and procedures other than those that apply to nationals of Hungary. In such cases the upper limit on the amount of land foreigners can acquire is the same as for domestic private persons (300 ha). Pre-emptive rights in the acquisition of ownership also apply to foreign individuals. Second, foreigners may acquire a farmstead formed as an independent real property (parcel of land) of 6,000 m² or less in accordance with the provisions of specific legislation on other real properties not classified as arable land. Third, foreigners may acquire real estate that is not qualified as arable land so that they can acquire the farm buildings necessary to set up intensive livestock breeding and production systems. EU residents and legal entities and unincorporated entities established in any member state of the EU, in a member state that is a party to the Agreement on the EEA or in other similar states may acquire non-agricultural land under the same conditions applicable to resident persons (without special permission).

In Latvia, there are a number of restrictions on citizens and legal entities of EU member states wishing to acquire agricultural and forest land. Foreigners are not allowed to acquire non-agricultural land in areas along the state borders, nature reserves or in the territories of other natural parks.⁹ Some exceptions apply to these restrictions. First, EU citizens can buy agricultural land provided they have been farming and living in Latvia for at least three years without interruption. But they are only allowed to acquire the particular parcel of agricultural land they have been renting for at least three years prior to the acquisition. Also, before actually receiving ownership rights, they need to obtain consent from the local municipality. Second, there are no restrictions on the ownership of agricultural land by legal entities provided at least 51% of the share capital is owned by citizens of Latvia, the Latvian state or a Latvian municipality. Finally, it is worth mentioning that in practice there is no official investigation regarding the practical application of the above-mentioned legal norms in land transactions, such that foreigners can buy agricultural land with hardly any restrictions.

In Lithuania, foreigners have been unable to buy agricultural real estate during the transition period. Nevertheless, there have been exceptions for those foreigners (natural persons and legal entities) who have been permanently living and farming in Lithuania for at least three years.¹⁰ Such individuals have not only been able to buy the parcel they have been renting, but also any parcel in the country.

In Romania, there is a restriction on the ownership of agricultural land by foreigners (natural persons with no permanent residence in Romania or legal entities not established in Romania). As in other NMS, there are some exceptions. First, this restriction is not applied to independent farmers (natural persons) who are citizens of an EU member state (or stateless persons having their domicile in Romania or an EU member state) and who wish to establish their permanent residence in Romania. These farmers can buy land without restrictions as long as they can prove their ability to farm with documents issued by the EU member state. Second, all foreigners (so not just those from EU member states) can acquire land through inheritance. Third, legal entities are allowed to acquire land regardless of the origin of their capital. Hence, foreigners who establish a firm in Romania can buy agricultural land without

⁹ This stipulation also applies to the land of the Baltic Sea, the protected zones of beach dunes in Riga's bay area and land in protected zones of public waters, excluding territories for the purpose of construction according to the territorial plans of municipalities and land with public federal mines.

¹⁰ Note that a foreigner who marries a Lithuanian citizen cannot formally own the land unless s/he also becomes a Lithuanian citizen. Such persons can become a 'co-owner' in joint ownership, however, and can claim compensation for the land parcel in case of divorce.

restriction if they establish a domestic legal entity. Fourth, in some cases, even foreign legal companies are allowed to acquire agricultural and forest land. According to the Act of Accession, a commercial company (either a resident or non-resident legal entity) can acquire any real rights on immovable assets to the extent necessary for carrying out its activities according to its social objectives, while respecting the legal provisions on the acquisition of ownership rights to land by foreign citizens, stateless persons and foreign legal entities.

In Slovakia, there is a restriction on the ownership of agricultural land by foreigners (a natural person with no permanent residence in Slovakia or a legal entity not established in Slovakia). At the same time, there are some specific exceptions and some practical limitations. Non-Slovakian EU inhabitants with a residence permit in Slovakia who have rented and farmed the land for at least three years since Slovakia's EU accession can buy and own land in Slovakia. In such cases, a rental contract between the landowner and the tenant duly signed by both parties is necessary. In addition, non-Slovakian EU inhabitants can acquire agricultural land through inheritance and by exercising pre-emptive rights in the case of co-ownership. Furthermore, foreigners can establish legal entities registered in Slovakia and buy land through that legal entity.

In Poland, only from 1 May 2016 onwards will nationals of EU member states or a state that is part of the EEA be allowed to purchase agricultural land without restrictions, while the rules laid down in the Act of 24 March 1920 on the acquisition or sale of agricultural real estate will be maintained for foreigners from outside the EU or EEA. During the transition period, sales to foreigners (natural persons and legal entities)¹¹ are subject to a specific procedure whereby special permission needs to be granted by the ministry of internal affairs and the ministry of agriculture and rural development.¹² Even then, the agricultural property agency has a pre-emptive right to purchase the land that was offered for such a transaction. The same rules apply if a foreigner seeks to purchase or take over stocks in a company owning or perpetually using real estate in Poland and if the company, as a result of this purchase, will become controlled by foreigners or if the company is controlled by foreigners and the purchaser is not a stockholder in the company.

Nevertheless, there are some exceptions for which permission from the ministry of internal affairs and the ministry of agriculture and rural development are not needed. Foreigners can acquire agricultural real estate if they are married to a Polish citizen and after, in addition, they have been residing in Poland for at least two years and on the condition that the purchased property will become the joint property of wife and husband. Foreigners can also acquire land if they have been residing in Poland for at least five years after they have obtained permanent resident status. Still, it is important to note that these exceptions do not hold for land located in border zones or parcels of agricultural land exceeding 1 ha. Finally, the transition period does not apply to EU or EEA citizens who decide to purchase real estate once they have rented it for three years in certain Polish regions.¹³

¹¹ This stipulation includes legal entities based abroad and legal entities based in Poland but controlled by natural persons having non-Polish citizenship or partnerships of both.

¹² The documents that a foreigner in Poland is obliged to submit to purchase agricultural real estate comprise, among others, a statement by a seller that s/he is willing to sell the property, an extract from the zoning plan, and in cases where a foreign purchaser is not a natural person, proof of the purchaser's financial situation. This last requirement aims at checking whether the purchaser is able to finance the purchase of a given piece of real estate and refers to bank account statements as well as the purchaser's creditworthiness. Therefore, buying land with credit should not count against the purchaser.

¹³ This situation applies where land has been rented for three years in the regions of Lubelskie, Łódzkie, Małopolskie, Mazowieckie, Podkarpackie, Podlaskie, Śląskie and Świętokrzyskie or for seven years in the regions of Dolnośląskie, Kujawsko-pomorskie, Lubuskie, Opolskie, Pomorskie, Warmińsko-mazurskie, Wielkopolskie and Zachodniopomorskie. In these cases, the rental contract should have been made with a certified date and the foreigners should have personally used the land for agricultural production and have legally stayed in Poland. The rental period preceding the purchase

In the FYROM, foreign natural persons (both EU and non-EU citizens) cannot own or acquire agricultural land unless the land is obtained by inheritance. But foreign legal entities can own and acquire agricultural land under the same conditions as domestic legal entities.

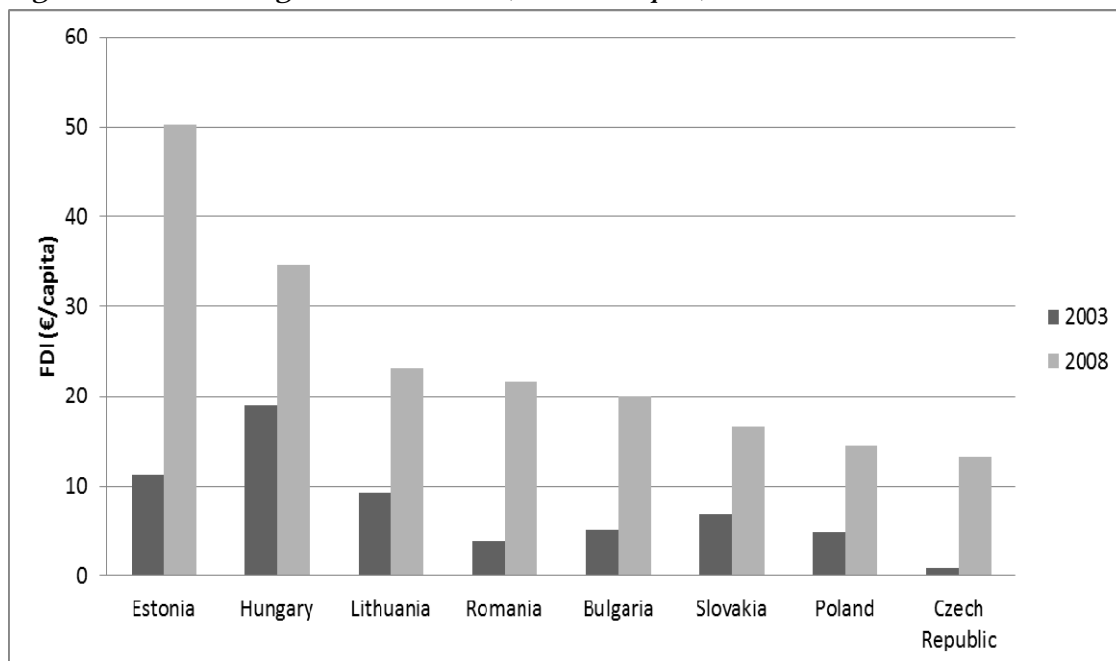
In Turkey, restrictions on foreign ownership of agricultural land are very stringent and neither foreign natural persons nor legal entities can acquire or own agricultural land.

Since there are differences among the NMS in the implementation of the legal restrictions on foreign land ownership and acquisition, it is worth looking at the extent to which foreigners have actually been able to buy agricultural land. Box 1 provides an overview of the actual foreign ownership of agricultural land in the NMS.

Box 1. Actual foreign ownership of agricultural land in the NMS

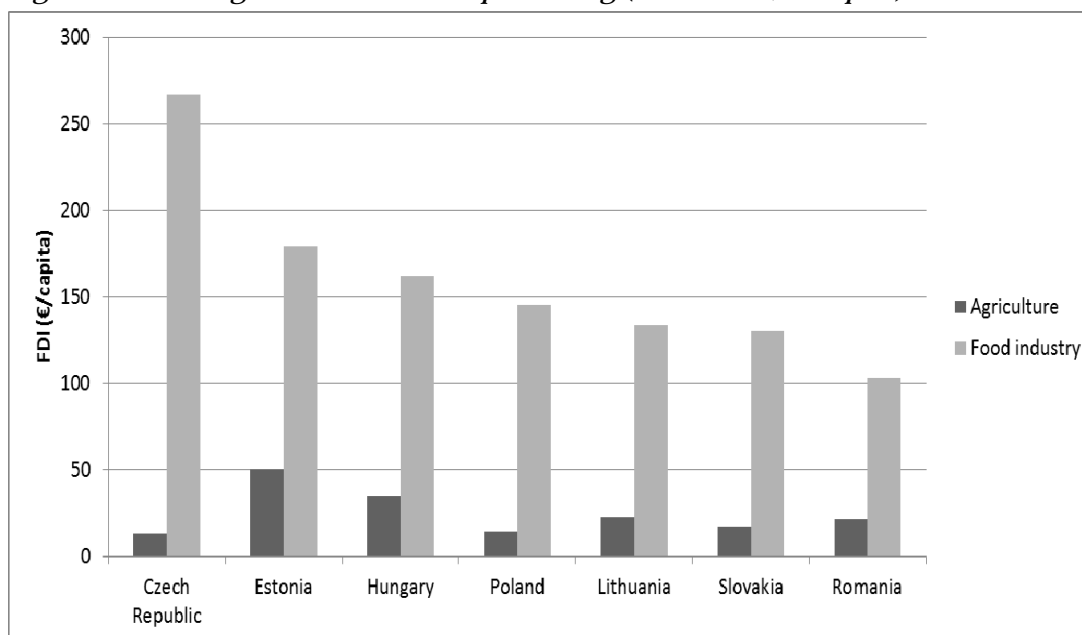
In the last decade, there has been a substantial increase in foreign direct investment (FDI) in the agricultural sector in the NMS (Figure 2). Yet compared with the food processing industry for example, these investments are still rather limited (Figure 3).

Figure 2. FDI in the agricultural sector (stock, €/capita)



Source: wiiw database.

of land shall be calculated individually for each national of a member state or of a state that is part of the EEA who has been renting land in Poland from the certified date of the original rental agreement. Self-employed farmers who have been renting land as legal persons can transfer the rights of the legal person under the rental agreement to themselves as natural persons. For calculating the rental period preceding the right to purchase, the rental period of the contracts as legal persons shall be counted. Rental agreements by natural persons can be provided with a certified date retroactively and the entire rental period of the certified contracts will be counted. There shall be no deadlines for self-employed farmers to convert their current rental contracts into contracts as natural persons or into written contracts with a certified date. The procedure to convert rental contracts shall be transparent and shall under no circumstances form a new obstacle.

Figure 3. FDI in agriculture and food processing (2008 stock, €/capita)

Source: wiiw database.

Since there are substantial differences in the legal regulation on land acquired and owned by foreigners, it is worth looking at the actual differences in foreign ownership.

In Poland, where we observe a rather strict implementation of the restrictions, foreigners bought around 1,400 ha of land between 1999 and 2005, and the amount of land transacted on a yearly basis increased slightly. This represents far less than 1% of total agricultural land. At the same time, it should be taken into account that these figures represent only the official statistics and are likely to underestimate the actual demand for and foreign ownership of agricultural land. There are undocumented reports of foreigners acquiring agricultural land by using Polish citizens as intermediaries, in order to avoid the restrictions. There are also considerable regional differences as foreigners are more active in the western regions of Poland.

In Hungary, foreigners bought only 700 ha of agricultural land between 2005 and 2006, which represents less than 0.2% of the total turnover. The share of foreigners is slightly larger when it comes to buying farmsteads: between 1% and 1.5% of the farmsteads that changed ownership were bought by foreigners. These low figures seem to indicate that foreigners do not really pose a threat to land purchase opportunities for Hungarian farmers. Nevertheless, it should again be borne in mind that these figures only refer to official statistics. Many agricultural land parcels are sold using the so-called 'pocket contracts', which are illegal but still used.* According to land experts, foreigners owned around 400,000 ha (about 6%) of agricultural land in 2008 (including land bought by foreigners in an unofficial way).

In Slovakia, where foreigners can buy agricultural land relatively easily by setting up a legal entity, foreigners own approximately 20,000 ha or 1% of the UAA.

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.

In Bulgaria and Romania, there is no official statistical information on the foreign ownership of agricultural land. But based on anecdotal evidence collected from various sources, we find that there is substantial foreign ownership of agricultural real estate in both countries.

In Bulgaria, there are some large investment funds with foreign participation that have acquired significant amounts of agricultural real estate. For example, Winslow Group JSC – a Bulgarian–British partnership – invested in 4,000 ha of which 2,500 ha was owned in 2008; Ceres, an investment fund, which includes as a partner (among others) Raiffeisen Centrobank AG, owned approximately 22,000 ha in 2008.

In Romania, there is substantial anecdotal evidence of foreign ownership in the agricultural land market. For example, in the county Timis, experts have estimated that approximately 150,000 ha of agricultural land or 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. In addition, French farmers are active in Romania, but more in the southern part of the country. In 2009, approximately 20 farmers were active in this region and besides two viticultural companies, which operate on less than 100 ha, each of these farmers operate on large areas of around 1,000 ha of agricultural land, some of even 3,000 ha.

* Pocket contracts are signed sales contracts that 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.

Source: Swinnen and Vranken (2009)

3. Price regulations

In most EU member states, governments impose price regulations on agricultural land markets. In most countries, however, the rental markets are especially affected by this regulation (see Ciaian et al., 2012a). Generally, the sales market for agricultural land is less vulnerable to price regulations and only in France and some regions in Germany are there price regulations for the sales market.¹⁴In both countries, there is a special agency that deals with agricultural land sales.

In France, this agency is the local SAFER (see section 2.1). In addition to having a pre-emptive right, the agency also participates in the negotiation process between the buyer and the seller of agricultural land. If the parties cannot come to a mutual agreement on a certain price, SAFER can propose another buyer or another price that is more in line with the observed market price. In some cases, SAFER can even decide to exercise its pre-emptive right and acquire agricultural land to sell to another buyer or to rent out when this better fits SAFER's mission objectives. Even if an agreement has been established between a buyer and seller, SAFER can intervene and exercise its pre-emptive right, for example when agricultural land is sold at a price that is too low and SAFER suspects that it is being purchased for speculative reasons.

In Germany, more specifically in some regions in Eastern Germany, the government imposes a maximum sales price for former landowners, who are often the current tenants and did not have the possibility to buy land in the former GDR, to enable them to buy land at a reduced market price. These regulations are described in the Compensation and Indemnity Act and the Regulation on the Acquisition of Agricultural Areas, which were passed to privatise and reorganise state-owned areas (Möller et al., 2010). The trust company BVVG (Bodenverwertungs- und -verwaltungs GmbH) is the authority responsible for the reassignment and privatisation of agricultural plots. Until 2009, physical and legal entities that rented and used the land for at least six years could buy land at a reduced price (65% of

¹⁴ The most common forms of price regulations are minimum and maximum prices. Both practices may result in a price difference between the regulated price and the equilibrium price, which may lead to payments under the table.

the current market price), although some restrictions applied. First, the amount of agricultural land that the former landowner could buy at a lower price was limited and it depended on the quality of the land (for example, 120 ha of medium soil quality). Second, the buyer was obliged to use the agricultural land for at least 20 years, otherwise the contract could be cancelled.

In the NMS, there are no prevailing price regulations.

That being stated, one should not conclude that only in markets where there are price regulations can the market outcome deviate from the most effective outcome. Prices can also deviate from the competitive outcome in competitive land markets with free sales prices for agricultural land. In competitive markets, buyers and sellers come together and negotiate a market price. But since different land markets are spatially separated from each other, for example because of the prevalence of a large group of 'absentee' landowners in the NMS, there is unequal bargaining power among the various players and the bargaining strength is usually on the side of the landowner (King and Sinden, 1994). This difference in bargaining power may affect the market outcome (Siegel and Fouraker, 1960). Especially in markets where there are only a few transactions and the land markets are highly segmented, the observed price and quantity of agricultural land sold may deviate from the competitive market outcome.

4. Transaction costs

There are various transaction costs that affect the agricultural markets. In this section, we discuss the taxes associated with land sales and ownership, zoning regulations and the market imperfections that especially characterise the sales market in the NMS.

4.1 Taxes

Taxes on agricultural land may have an impact on land supply and demand. With respect to the sales and ownership of agricultural land, there are two common types of taxes: 1) land transaction taxes (capital gains tax for sales and registration tax for purchases), and 2) usage (real estate) tax. Table 3 provides an overview of these taxes in the selected member states.

Table 3. Land taxes: Registration and usage (real estate) tax (% of land value)

Old member states		
	Registration tax (%)	Usage (real estate tax) (%)
Belgium	10-12.5	KI*
Finland	4**	0
France	5.09	KI*
Germany	3.5	2.6-6
Greece	7-9	0
Ireland	9	0
Italy	11-18	0.4-0.7
Netherlands	0	0
Spain	6-7	6-15
Sweden	30% on two-thirds of the sales value	0
UK	0-4	0

Table 3 (cont'd)

New member states		
Bulgaria	0	0
Czech Republic	3	0***
Estonia	n.a.	0.1-2.5
Hungary	0.5-1	0
Latvia	0.5-3	1.5
Lithuania	0.5-1	1.5
Poland	2-5	n.a.
Romania	n.a.	n.a.
Slovakia	0	0.25

*KI= cadastral income; this is a fictive income based on the location of the plot, which represents the rental income the landowner would receive if s/he rented out the plot

** An exemption applied to farmers

*** An exemption applied to agricultural land near built-up areas

Source: Ciaian et al. (2010) for the OMS; Swinnen and Vranken (2009; 2010) for the NMS.

4.1.1 Land transaction taxes

Overall, land transaction taxes are heterogeneous across member states, ranging from 1% for low-value land in the UK to 18% for high-value land in Italy (see Table 3 above). High costs associated with transacting land are expected to hinder structural change in the agricultural sector as they limit the reallocation of land from less productive farms to highly productive farms. On the other hand, when there are only low costs associated with the purchase of agricultural land, it is possible that there may be more purchases for speculative purposes by non-agricultural investors.

In Belgium, there are two important types of costs that need to be paid in relation to transactions for agricultural land: registration costs (ranging between 10% in Flanders and 12.5% in Wallonia)¹⁵ and the notary fee (at a regressive rate starting at 4.65% for the first €7,500). Hence, since the total tax paid is high, there is a strong incentive to pay approximately 20% of the purchase price ‘in an envelope’ (see Box 2).

In Finland, the tax on agricultural land transactions is 4% of the sales price. In addition, there is a tax on the proceeds from real estate sales (including agricultural land), which equals 28%. Yet farmers selling agricultural land on which farming activities take place are exempted from the tax on the proceeds.

In Germany, taxes on land sales transactions amount to 3.5% of the purchase price and are usually paid by the buyer (although this depends on the mutual agreement between the buyer and the seller of the plot).¹⁶ Additional transaction costs include the notary fee, a land registration fee and – if needed – a fee for any official expertise and a land survey. In some cases, a capital gains tax applies when the seller realises a profit on the sale of agricultural land (when the total profit in a legal year exceeds €600).¹⁷

¹⁵ These are the costs for a private sale of agricultural land. In the case of an auction (public sale), the costs are higher and as rule of thumb one can estimate them at 20% of the sales price.

¹⁶ Note that there are no taxes paid when the purchase price is below €2,500.

¹⁷ The speculative period for the sale of agricultural land is ten years.

Box 2. Payments ‘in an envelope’ in the land sales market in Belgium

In Belgium, the high administrative costs associated with the purchase of real estate provide an incentive to pay part of the purchase price to the seller ‘in an envelope’ (thus avoiding any taxes on this amount). By comparing the data for auctions and private sales in the period 1990–2004, provided by FOD Economie, KMO, Middenstand en Energie, one can roughly estimate the envelope payment as the difference between the price paid in an auction (publically determined) and in a private sale (by mutual, private agreement). When dropping the 25% highest and 25% lowest differences, we roughly estimate that approximately 20% of the purchase price is paid as black-market (envelope) money. It is important to note that there is an incentive for the buyer to limit the envelope payment, since the buyer can be fined by the registration office if the sales price differs too much from the average regional sales price of agricultural land.

In Greece, there is a progressive sales tax rate for the sale of agricultural land: 7% for the first €15,000 and 9% for amounts above €15,000. The tax rate is calculated based on the administrative value of the agricultural land, which in some cases corresponds to the real sales price. The administrative value of agricultural land is determined based on the initial basic value or special basic value (for plots in coastal areas), which in turn are used as a basis for the calculation of an administrative land sales price for each municipality. Farmers (natural persons) are exempted from sales tax when they use the land for agricultural production in the next 15 years.¹⁸ For legal entities, the tax exemption is 50%.

In Ireland, there are mainly three different taxes and transaction charges for agricultural land transactions. First, there is the stamp duty, which should be paid by the buyer of the agricultural land. The stamp duty for the sale of agricultural land can be up to 9% for land values higher than €150,000, with lower tax rates for less expensive agricultural land. Second, there is the capital gains tax (20%), which is paid by the seller. In addition, there are sales fees, which are not regulated by legislation and are also usually paid by the seller.

In Italy, the sales tax depends on the region and ranges between 11% and 18%. It is the sum of three taxes: the *imposta di registro* (8% if the buyer is a full-time farmer and 15% otherwise), the *imposta catastrale* (2%) and *impostapotecaria* (1%). The sales tax is based on the ‘stated’ value of the agricultural land, which can be different from the real price.

In the Netherlands, the land transaction tax is 6% of the sales price and should be paid by the buyer. Yet if the buyer uses the land for at least ten years for agricultural production, s/he is exempted from the tax.

In the UK, stamp duty applies to transactions in the agricultural land market (including those pertaining to inheritance). So too does capital gains tax on certain assets, such as land and other capital assets. The maximum rate of this tax is 18%. At the same time, there is an exemption when business assets (such as agricultural land) are sold at a gain if the whole of the sale proceeds is reinvested in other business assets (in the period 12 months prior to and 3 years after the sale).

In the NMS, land transaction costs are relatively high compared with the OMS. The costs related to land transfers include notary fees, taxes and assorted administrative charges, and according to studies on Poland, Bulgaria, Lithuania and Romania, these costs range between 10% and 30% of the value of the land transaction (OECD, 2000; Prosterman and Rolfes, 2000; World Bank, 2001; Swinnen and Vranken, 2010).

For example in Poland, buying (selling) land is connected with several costs. These are related to the civil law action tax, legal costs (for a motion to set up a mortgage register and

¹⁸ If within this 15-year period the use of the purchased land changes or the land remains uncultivated for a period of 2 years, the tax exemption no longer applies.

registration), notary fees and additional expenses (remuneration for an intermediary or assessor). Table 4 lists the maximum levels of these costs.

Table 4. Transaction costs for the land market in Poland

Civil law action tax	2% of property value, usually paid by the buyer
Legal costs	200 PLN – for a motion to set up a mortgage register (+22% VAT); 6 PLN – for the extract of a deed (+22% VAT) 60 PLN – for setting up a mortgage register 100 PLN – for deleting the mortgage 150 PLN – for a motion to advise of rights and claims
Notary fees	100 PLN + 3%-0.25% of the price (+22% VAT), depending on the value of the transaction, usually paid by the buyer
Additional costs	
• Intermediary costs	Not regulated, usually 2.5-3% of the transaction value (+22% VAT)
• Fixing border lines	Around 1,000 PLN or more
• Income tax	10% of income, paid by the seller

Source: Zagórski (2006).

4.1.2 Usage (real estate) taxes

Similar to the case of transaction taxes, usage (real estate) taxes are also heterogeneous across member states, ranging from a tax rate of 0% on farmland to over 15% in some of the southern European countries (see Table 3 above).

In Finland, Greece, Ireland, the Netherlands, Sweden and the UK, there is no usage tax on agricultural land.

In Belgium and France, the landowners should pay a real estate tax rate on their property. This tax includes different tax rates, which are set at the NUTS2, NUTS3 and municipal levels. The tax is calculated based on the cadastral income. This is an index created in 1970 (France) or 1975 (Belgium) that represents the net rental income a landowner could gain based on the characteristics of the plot (soil quality, plot location – e.g. on slope). The average cadastral income in Belgium in 2006 was €50. Notably, there are large variations among regions, reflecting 1975 differences in agricultural productivity. In France, agricultural land is exempted from the tax at the NUTS2 and NUTS3 levels and only the municipal tax applies. Still, this municipal tax is generally the highest: for example, in Bretagne, the tax on non-built land is 4.13% at the NUTS2 level, between 17.7% and 38.61% at the NUTS3 level and on average 48.16% at the municipal level (for agricultural land only the latter applies). Furthermore, there are also regional exemptions for specific groups of farmers: for instance, young farmers or farms located in Corsica are exempted.

In Germany, landowners also need to pay a property tax and the rate of taxation depends on the location of the property (East or West Germany) and the purpose of the land (housing, agricultural land, etc.).

In the NMS, property taxes tend to be low, ranging from 0% in Bulgaria and the Czech Republic to 2.5% in Estonia. For the most part, real estate taxes are paid by the landowner, but in some cases the tenant pays the tax. For example in Latvia, the tenant pays the property tax when the land is owned by the state or the municipality.

4.2 Unconventional transaction costs in the NMS

In the NMS, in addition to the common transaction costs (e.g. notary fees and registration costs) and the substantial imperfections in the credit market, there are additional, high costs associated with a land sales transaction owing to the historical land-restitution process, which has caused imperfect competition in the agricultural land market.

Along with substantial market imperfections, there are other constraints that impede both land sales and rental transactions, and hence reduce the potential to transfer land from the least to the most productive users and prevent the efficient allocation of agricultural land.

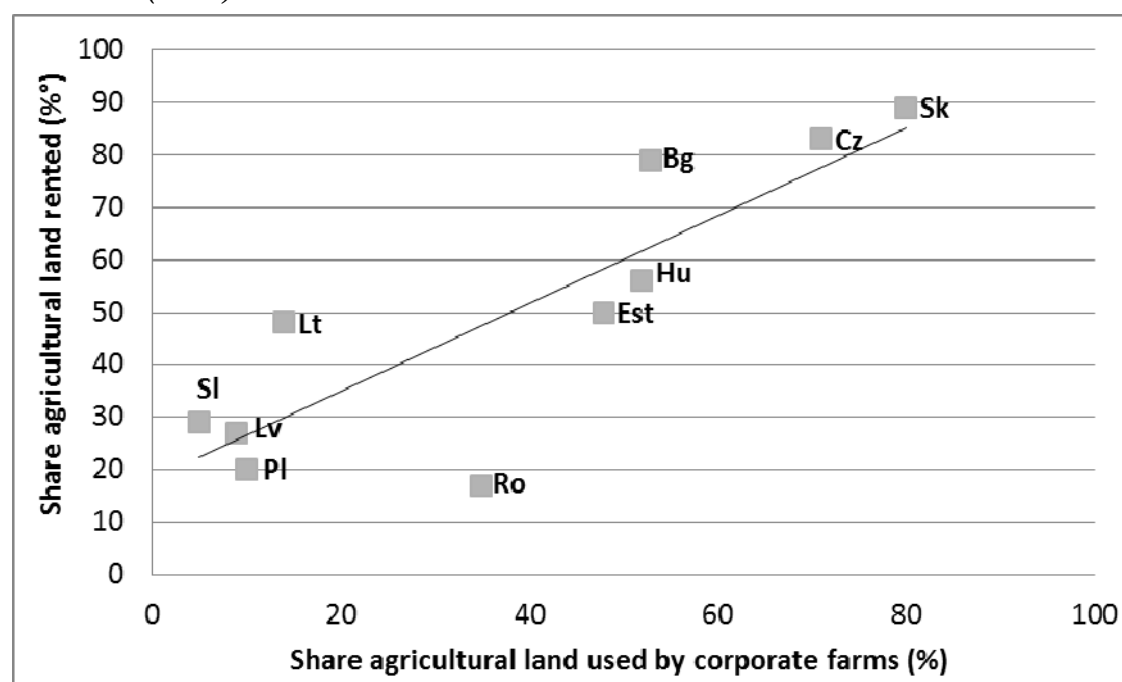
It is well known that imperfections in property rights¹⁹ as well as transaction costs are significant constraints on the development of land markets in the NMS (Dale and Baldwin, 2000; Lerman et al., 2004). These costs include uncertain property rights stemming from unfinished privatisation, unknown ownership and co-ownership, the enforcement of high withdrawal costs and unclear boundaries, etc.

4.2.1 Imperfect competition in the land market

After transition, agricultural land was restituted to former owners. The majority of these new owners are not (or are no longer) active in agriculture and may be retired or living in urban areas. For example, in Hungary ‘passive owners’ (a category that includes village-based pensioners, landowners who are not active in the cooperatives and those living outside the village in which their land is located) received around 71% of privatised agricultural land (Swain, 1999) in the land reform process. In many cases, they opted to rent out the land they received in the restitution process to the historical users of the land, particularly to large-scale corporate farms.²⁰

This tendency is reflected in the high share of rented land in some of the NMS and the strong correlation between farm structure and agricultural land use: in countries where more land is used by corporate farms, more land is rented (e.g. Slovakia) (Figure 4).

Figure 4. Correlation between the share of land used by corporate farms and rented land (2007)



Source: Eurostat.

¹⁹ Property rights for most of the land in the NMS were privatised in the 1990s. While these land reform processes have largely been finalised, this does not necessarily mean that all land reforms have been completed and that all issues concerning property rights have been resolved. There are several cases in which problems with property rights and transaction costs continue to influence land markets.

²⁰ New landowners may face significant transaction costs if they want to withdraw their land from the farms and reallocate it (see section 4.2.3).

Not surprisingly, the dominance of large corporate farms in the land market also leads to imperfect competition. Large farm corporations use their market power in local or regional land markets to influence land prices and rental contract conditions in their favour.

4.2.2 Imperfections in property rights

In the NMS, there are two important causes of imperfections in property rights. First, although the majority of the land is now privatised, there is still agricultural land that needs to be restituted to the former owners. Second, for the land that has been restituted, there are persistent problems that follow from the co-ownership of land and the difficulty of unknown owners.

Unresolved ownership

A substantive share of agricultural land is still owned by the state and may be subject to future privatisation and restitution. The current decision-making and uncertainty about future ownership has an effect on the (lack of) transactions associated with such land and its use.

This situation can be seen in Poland for example, where the agricultural property agency still owns around 3 million ha of agricultural land, corresponding to circa 19% of all agricultural land in Poland. Sales by the agency continue to be limited to some extent by restitution claims. Since 1997, there has been a ban on the sale of state property claimed by former owners or their successors, so around 0.5 million ha of land (or 18% of the agricultural land owned by the agency) has been withheld from the sales market.

In the Czech Republic, about 0.45 million ha (or 13% of the Czech UAA) remained under the administration of the land fund in 2007, although around 0.26 million ha of this will be privatised in the near future. Not surprisingly, sales of state agricultural land has had a substantial impact on the average land sales price, as the administrative prices (which are used for privatisation) are considerably lower than the market prices. Owing to the increased supply of land for sale, the latter prices have fallen in the last few years.

In Lithuania, the share of privately-owned land increased by more than 60% from 2000 to 2006. About 1 million ha of land was privatised from 2002 to 2006. By the end of 2011, an additional 0.9 million ha will have been privatised by restoring ownership rights or selling state-owned land to its users.

In Slovakia, the state owned 13,816 ha (or 7% of the UAA) in 2006 while the owners of a further 437,665 ha (23% of the UAA) were not known. Land that is owned by the state or of unknown ownership is managed by the land fund and might be subject to restitution or privatisation. State-owned land might also be subject to sale, but this is not the case for land of unknown ownership.

In Hungary, the state owned 2 million ha (around 22% of the total agricultural land) in 2006. Currently, it is managed by the national land fund, which rents it out on a long-term basis. But according to the land policy, it might be subject to privatisation.

In Latvia, ongoing land-privatisation programmes have no or hardly any influence on the sales market for agricultural land. The state and municipalities own respectively 30.1% and 4.8% of the total agricultural land. State and municipal land is used by forest organisations, educational and research institutions, the army and other governmental bodies. This type of land is of minor importance for the agricultural sector, and it is highly unlikely that such land will be subject to any privatisation process in the near future.

In Estonia, the land reform and privatisation process is basically completed. That does not mean that all restitution and privatisation transactions have been entered into the cadastre, however. The cadastral register has information on 83% of the total agricultural area. According to the information presently available from the cadastre, around 40% is owned by

the state or municipalities, but it is unlikely that this land will be subject to privatisation processes in the near future. Thus, it has little impact on the development of the land market.

In Bulgaria, the land restitution process was completed by 2006 and today land titles are distributed and land plots are clearly defined and delineated. Approximately 240,000 ha of agricultural land (8% of the UAA) are owned and managed by the state land fund.

In Romania, more than 10 million ha of land have been restituted to more than 4 million beneficiaries over the past two decades. The restitution process is virtually completed and approximately 1.6 million ha (or 12% of the UAA) remain in state and municipal ownership and will be rented out to private operators.

Unknown ownership and co-ownership

Other problems follow from co-ownership of land and the difficulty of unknown owners. In all the NMS, land ownership registration was poorly maintained if at all, and in many areas a process of land consolidation occurred, wiping out old boundaries and relocating natural identification points (such as old roads and small rivers). The loss of information on registration and boundaries resulted in a large number of unknown owners in some transition countries (Dale and Baldwin, 2000).

In addition, unsettled land inheritance within families during the socialist regime gave rise to widespread fragmentation in land ownership and a high number of co-owners per plot of land. In Slovakia, for example, in 2003 there were approximately 9.6 million registered plots, of roughly 0.45 ha per plot, and each plot was owned on average by 12 to 15 persons (OECD, 1997). In the Czech Republic, there were 4 million ownership papers registered in 1998 for 13 million parcels, with an average parcel size of 0.4. Many of these co-ownership issues still have not been resolved. In Bulgaria, the average size of an agricultural plot is 0.6 ha, ranging from 0.3 ha in the Smolyan region to 3.0 ha in the Dobrich region. This high level of land fragmentation affects the sales market because buyers are more reluctant to buy dispersed parcels of land (Kopeva, 2003).

In the FYROM, there is a predominately bipolar farm structure, which is also reflected in the average plot size. The land used by private farmers is fragmented: in 2007 the average plot size was 0.5 ha, whereas the average plot size of land used by agricultural enterprises was 113 ha (Swinnen and Van Herck, 2009). Furthermore, land use is also fragmented (Noev et al. 2003). Land use fragmentation, together with the application of different cultivation procedures and treatments on neighbouring parcels, has a negative impact on the quantity and quality of output.

All this raises the costs of land exchanges, for both sales and rentals, as land withdrawal from the corporate bodies normally requires agreement from the co-owners. As far as we know, there is no systematic evidence of the effects of these ownership problems in the NMS, although a detailed and survey-based assessment of co-ownership problems in Bulgaria (where 50% of the plots are co-owned in some regions) showed that co-owned plots of land are more likely to be used by corporate farms and less likely to be used by or rented out to other farms (Ciaian et al., 2012). Moreover, the probability of land being used by a cooperative or being abandoned increases with the number of owners, and the impact of co-ownership depends on whether the co-owners are living within or outside the village. Coordination problems worsen when co-owners are living farther away.

4.2.3 High withdrawal costs and unclear boundaries

Several studies document that the land markets in the transition countries, even among the most advanced ones such as those in Central Europe, were characterised by the existence of substantial transaction costs in rural land markets, hindering land exchanges in the years leading up to EU accession (Dale and Baldwin, 2000; Lerman et al., 2004). Transaction costs include those related to bargaining costs, the enforcement of withdrawal rights, asymmetric

information and unclear boundaries. Uncertainty and high costs in the identification of land property rights may lead to soaring transaction costs and constraints on land transactions.

Transaction costs also largely depend on the specific circumstances. For example, with respect to the withdrawal procedure, which is usually stipulated by law, the practical implementation of it is partly determined by the willingness of the corporate farms (Mathijs and Swinnen, 1998). Interviews with country experts confirm that the difficulty of withdrawing land is highly dependent on the location of the plot. The withdrawal of a plot that is situated in a consolidated field makes the process more problematic and costly. The cooperative farm and the landowners have to agree on the physical demarcation of the plot. If the plot is located in the middle of a consolidated field, they will typically try to agree on a comparable parcel along the border of that field. In this context, it is important that the farm management is accommodating in relation to the withdrawal procedure. According to the legislation, corporate farms have no right to block such withdrawals. Yet in practice, they are not always so supportive. Although the difficulties between the withdrawal of physical land plots and land shares are not that dissimilar, there are indications that the withdrawal of land shares is even more challenging, especially for land owned by individuals who are not connected with the corporate farms (non-members/non-partners). In general, these problems increase the costs for the landowner, since s/he can be deterred from withdrawal by being offered a plot located far from his/her operation or a plot of lower soil quality.

Significant transaction costs continue to persist. There is some indirect, anecdotal evidence that when markets become more mature, transaction costs decrease. Evidence of this evolution in Slovakia and the Czech Republic is discussed in Box 3.

Box 3. Indirect evidence of changes in the transaction costs in Slovakia and the Czech Republic

While there is no firm evidence of how significant transaction costs are or how they have changed over recent years, indirect evidence based on data on the differences in land prices paid by various farms in the Czech and Slovak Republics suggests that land transaction costs have reduced greatly over recent years. Table 5 shows how the difference in rental prices between corporate farms and individual farms – which one could consider an indicator of transaction costs (as discussed above) – has fallen from 73% in 1997 to 15% in 2005 in the Czech Republic and from 229% in 2001 to 45% in 2005 in Slovakia. Land transaction costs have fallen as a result of improved awareness and information among landowners along with land consolidation, which has led to more rental transactions and increased prices for landowners.

Table 5. Rental prices for agricultural land by legal entity (€/ha)

	1997	2001	2005
Czech Republic			
Individual farms (€/ha)	16	23	35
Corporate farms (€/ha)	9	17	30
Price gap in € ($P_{IF}-P_{CF}$)	7	6	5
Price gap in % ($(P_{IF}-P_{CF})/P_{CF}$)	73	37	15
Slovakia			
Individual farms (€/ha)	–	18	24
Corporate farms (€/ha)	–	6	17
Price gap in € ($P_{IF}-P_{CF}$)	–	13	7
Price gap in % ($(P_{IF}-P_{CF})/P_{CF}$)	–	229	45

Sources: FADN for Slovakia and VUZE for the Czech Republic.

5. Other regulations

Along with the regulations specific to agricultural land sales, there are other regulations not directly related to the agricultural sector but which also affect it. Examples of such regulations are inheritance laws and zoning regulations.

5.1 Inheritance law

There are large differences among countries in relation to inheritance laws. First, there are differences in the degree of liberty that farmers have in transferring their agricultural property to the next generation. For example, in France the inheritance laws stipulate a mandatory transfer of land to the rightful heirs. This means that unlike full testamentary freedom, where the owner can draft his/her testament, heirs are designated by law as well as the share of property and other assets to which they are entitled. Hence, the landowner is not free to choose her/his heirs, nor their respective shares of the inheritance. Concretely, equal shares of the bequest are given to children, and only since recently has the widow spouse in some cases been considered in the shares. A similar system is in place in Belgium. This is in contrast with the UK, where one can disinherit children when making a will.

Second, there are also important differences among countries with respect to the amount of taxes that should be paid for an inheritance. For example, in France there is a tax-free allowance when the value of the bequest does not exceed €76,000 for a spouse and €46,000 for children (the amount is lower for other relatives). The tax rate is progressive, with a rate ranging from 5% to 40% of the value of the inherited property/assets. In the UK, the inheritance tax is only chargeable at death and lifetime transfers (gifts) are known as potentially exempt transfers (PETs). If the donor dies within seven years of making a PET, the transfer is taxed on the value at the date of the gift, using a sliding scale. In 2007–08, the rate of inheritance tax was 40% on transfers higher than £300,000 in value made within seven years of death and on property passing upon death. All other chargeable transfers are taxed at 20%. For the purpose of the calculation of the inheritance tax, farm assets include any woodland and associated farm buildings, cottages and farmhouses. Owners of farmland are offered two types of relief from inheritance tax subject to certain ownership conditions, effectively removing much farmland from inheritance tax charges. In Greece, farmers are granted tax exemptions for an inheritance or intergenerational transfer of agricultural land under certain conditions.

5.2 Zoning regulations

In almost all countries there are zoning regulations regarding the designated use of agricultural land and usually a change in the use of a plot requires permission by the regional or local authority.

For example in Belgium, zoning regulation is a regional competence. Regulation is relatively strict and there are zoning plans that divide each municipality into several zones according to their use: urbanised, recreational, agricultural, natural and forest zones. For the most part, it is difficult to change the designated use of a plot. Nevertheless, at the regional level changes in the plans are still possible. In Flanders, the objective of the regional spatial plan is to reduce the area of agricultural land to the benefit of woodland and natural reserves. Between 1994 and 2005, 12,000 ha of agricultural land disappeared and 13,000 ha of woodland and natural reserves were created. On the other hand, in Wallonia zoning regulation aims at increasing the zone designated for economic activity at the expense of the agricultural area. In Wallonia, approximately 54,000 ha of agricultural land is still situated in the housing zone and these plots are increasingly under pressure and subjected to speculation.

In France, all land devoted to agriculture is registered as agricultural land and when an owner wants to convert land to another use (housing, recreation, etc.), s/he needs to obtain approval by the regional administration, as it requires a change in the zoning plans (*plans locaux d'urbanisme*). As in Belgium, these zoning plans divide each municipality into several

zones according to their use: urbanised, recreational, agricultural, natural and forest zones. In theory, it is very difficult to change the use of a plot if the change does not conform with the designation on the local zoning plan. Yet in practice it happens relatively frequently that zoning plans are changed and agricultural land is converted, usually into industrial or housing plots. The local authorities not only have the authority to provide building permits, but also urban pre-emptive rights to buy land for the purpose of building roads and railways and for recreational activities, etc.

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Appendix

Table A1. Overview of the institutional and regulatory framework concerning the sales of agricultural land in the OMS

OMS	Quantity regulations			Price regulations		Transaction costs: Taxes		
	Limitations on the amount of owned land	Limitations on the amount of transacted land	Restrictions on buying land by EU natural and legal persons	Min. price	Max. price	Registration tax	Real estate tax	Other costs
Austria	√ (authorisation by the regional authority)	√ (authorisation by the regional authority)				√ (3.5% of the transaction price)	√	√ (1% of the sales price + notary fee)
Belgium						√ (10-12.5% of the transaction price)	√	√ (notary fees)
Finland						√ (4% of the sales price)		
France		√ (authorisation by the regional authority)	(the head office needs to be registered in France)	√ (SAFER controls all transactions and if there is suspicion of speculation, it proposes a more market-orientated price)	√ (SAFER can refuse the transaction)	√	√	√ (5.09% of the sales price)

Table A1. (cont'd)

OMS	Quantity regulations			Price regulations		Transaction costs: Taxes		
	Limitations on the amount of owned land	Limitations on the amount of transacted land	Restrictions on buying land by EU natural and legal persons	Min. price	Max. price	Registration tax	Real estate tax	Other costs
Germany		√ (authorisation by the regional authority)			√ (in East Germany: for former farmers who lost their land due to collectivisation)	√ (3.5-5% of the sales price)	√	√ (cadastral fee + notary fee)
Ireland						√ (stamp duty: 1%-8%; exemption for young farmers)		√ (notary fee)
Italy						√(18%of the sales price)	√	√ (notary fee)
Netherlands						√(6% of the sales price)		√ (notary fee)
Spain	√ (fixed amount by territorial governments)		√					
Sweden						√ (1.5-3% of the sales price)		√ (notary fee)
UK		√ (Scotland)				√ (1-4% of the sales price)		√ (notary fee)

Source: Authors' compilation.

Table A2. Overview of the institutional and regulatory framework concerning the sales of agricultural land in the NMS

NMS	Quantity regulations			Transaction costs: Taxes		
	Limitations on the amount of owned land	Limitations on the amount of transacted land	Restrictions on buying land by EU natural and legal persons	Registration tax	Real estate tax	Other costs
Bulgaria			√ (natural persons)			
Czech Republic			√ (natural persons)	√	Since 2008 agricultural land has been exempt from real estate tax	n.a.
Estonia		√ (minimum 30 m ²)	√ (natural persons)	n.a.	n.a.	n.a.
Hungary	√ (up to 300 ha)		√ (natural persons and legal entities)	√	n.a.	√ (notary fee)
Latvia			√ (natural persons and legal entities with a majority of the shares owned by foreigners)	√ (stamp duty between 0.5%-2%)	√	√ (notary fee)
Lithuania	√ (up to 500 ha, more only in case of inheritance)	√ (up to 500 ha)	√ (natural persons)	√	√ (1.5% on the taxable value of land)	√ (notary fee)
Poland	√ (up to 300 ha for an individual farmer)		√ (natural persons and legal entities with a majority of the shares owned by foreigners)	√	√	√
Romania	√ (up to 200 ha for family farms)		√ (natural persons)	n.a.	n.a.	n.a.
Slovakia		√	√ (natural persons)	√		√ (notary fee)

Source: Authors' compilation.



Comparative Analysis of Factor Markets for Agriculture across the Member States

245123-FP7-KBBE-2009-3

The Factor Markets project in a nutshell

Title	Comparative Analysis of Factor Markets for Agriculture across the Member States
Funding scheme	Collaborative Project (CP) / Small or medium scale focused research project
Coordinator	CEPS, Prof. Johan F.M. Swinnen
Duration	01/09/2010 – 31/08/2013 (36 months)
Short description	<p>Well functioning factor markets are a crucial condition for the competitiveness and growth of agriculture and for rural development. At the same time, the functioning of the factor markets themselves are influenced by changes in agriculture and the rural economy, and in EU policies. Member state regulations and institutions affecting land, labour, and capital markets may cause important heterogeneity in the factor markets, which may have important effects on the functioning of the factor markets and on the interactions between factor markets and EU policies.</p> <p>The general objective of the FACTOR MARKETS project is to analyse the functioning of factor markets for agriculture in the EU-27, including the Candidate Countries. The FACTOR MARKETS project will compare the different markets, their institutional framework and their impact on agricultural development and structural change, as well as their impact on rural economies, for the Member States, Candidate Countries and the EU as a whole. The FACTOR MARKETS project will focus on capital, labour and land markets. The results of this study will contribute to a better understanding of the fundamental economic factors affecting EU agriculture, thus allowing better targeting of policies to improve the competitiveness of the sector.</p>
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Website	www.factormarkets.eu
Partners	17 (13 countries)
EU funding	1,979,023 €
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