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## **The Preferential Conditions for Land Acquisition as a Motivating Factor for Enlarging and Creating Farms in Poland**

**Abstract.** Transformations of the area structure of farms in Poland are determined by various factors among which the ability to acquire land on preferential terms is of critical importance. This thesis is supported, inter alia, by the analysis of sales realized in years 2010-2013 by the Agricultural Property Agency. They would not have been obtained, had it not been for farmer demand supported by the division of payments into installments or subsidizing interest payments on loans by the Agency for Restructuring and Modernization of Agriculture. The circumstances, scale and effects of this type of public aid as related to the creation of new agricultural holdings or enlargement of existing ones, are the subject of this study.

**Keywords:** acquisition of agricultural land, family-run holdings, public aid, legal regulations, Poland

### **Introduction**

The provision of support from public funds, known in Polish law as public aid, is one of the forms of state intervention in the field of the economic activity. This type of action, using instruments and public institutions, is regulated in detail in the European Union because it is designed to give profits to the beneficiaries, thus infringing the rules of market competition [Woźniak 2008]. The Act of 30 April 2004 on the procedural issues concerning state aid<sup>2</sup> is the basic regulation in Polish legislation under which the aid is granted. The authority monitoring state aid regarding the agricultural sector is the Minister of Agriculture and Rural Development.

The aim of the study is to show the circumstances, the scale and the effects of granting preferential loans with interest payments subsidized by the Agency for Restructuring and Modernization of Agriculture and the division of the selling price into installments by the Agricultural Property Agency. These forms of public aid, in accordance with the EU Council Decision of 20 November 2009 on the granting of a State aid by the authorities of the Republic of Poland for the purchase of agricultural land between 1 January 2010 and 31 December 2013<sup>3</sup>, had to be aimed at farmers purchasing land for the purposes of setting up or extending existent agricultural holdings.

The time scope of the study is based on the duration of the above-mentioned decision. For the purpose of its conduct, the information and data from various sources, with particular emphasis on official reports and statements, were used. Attention was also drawn to the legal regulations relevant to the issues which were taken into consideration.

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<sup>2</sup> Consolidated text of Journal of Laws of 2007 No. 59, item 404, as amended.

<sup>3</sup> Official Journal of the European Union, L 4/89, 8.1.2010.

### **The circumstances, scale and effects of agricultural land acquisition owned by the Agricultural Property Agency of the State Treasury on preferential terms**

Under the Act of 30 April 2004 on the procedural issues concerning state aid, the Minister responsible for agriculture shall submit an annual report containing the monitoring results in terms of amount, form, purpose and effects in the framework of competition. The data for the period of 2010-2013 shows that in Poland, state aid in the agriculture sector, except de minimis aid, was granted for the total amount of approx. 11 435.9 million PLN, including approx. 3 043.4 million PLN within the C category<sup>4</sup>. An important part of this aid related to the sale of Agricultural Property of the State Treasury stock, with the division of the selling price into installments using preferential interest rates. Over the period considered, one can observe the annual dynamic growth of its amount and the number of beneficiaries of this type of support (Table 1).

Table 1. Sales of stock of the Agricultural Property of the Treasury with the division of the selling price into installments using preferential interest rates for the years 2010-2013

Specification	2010	2011	2012	2013
The aid provided by the President of the Agricultural Property Agency:				
- in mln PLN	6,7	15,1	153,7	286,2
- in % of public aid of C category	1,0	2,6	20,5	26,7
- in % of total state aid	0,3	0,5	5,2	9,5
- the number of beneficiaries	576	799	1 750	3 816

Source: author's study based on reports on state aid granted in the agriculture and fisheries sector in the Republic of Poland for the period 2010-2013.

The possibility of the payments division into annual or semi annual installments for a period not longer than 15 years by the Agricultural Property Agency is under Art. 31 paragraph 2 of The Act of 19 October 1991 on the Management of Agricultural Property of the Treasury<sup>5</sup>. According to the available estimates, in 2011 about 65 thousand ha<sup>6</sup> were purchased on the basis of this Act, which accounted for more than half out of the 125.1 thousand ha that were available for sale. What should be emphasized is the fact that the share of land, which was sold with the payments division into installments and amounted to approximate 63%, showed an upward trend while moving to the higher area groups [Podgórski, Świętochowski 2012]. A similar phenomenon also occurred in 2012 [Podgórski, Świętochowski 2013].

On 3 December 2011 the Act of 16 September 2011 amending the Act on the Management of Treasury Agricultural Property and other Acts<sup>7</sup> came into force and

<sup>4</sup> The European Commission classifies the state aid types into categories labeled by the letters: A,B,C,D with suffix (1 and 2), representing respectively the budget aid (subsidy) or the tax relief and the letter identifying the type of aid. The C category covers financial transfers in the form of preferential credits and subsidies for interest payments on loans for the banks (C1) as well as deferrals, the rescheduling of the tax repayment scheme or liabilities [Sprawozdanie o pomocy...2013].

<sup>5</sup> Consolidated text of Journal of Laws of 2015 No. 0, item 1014.

<sup>6</sup> 25 thousand ha were purchased using preferential loans with the interest payments subsidized by the Agency for Restructuring and Modernization of Agriculture and the remaining 35 thousand ha were paid in cash.

<sup>7</sup> Journal of Laws of 2011 No. 233, item 1382.

recognized sales as the main form of the Agricultural Property of the Treasury stock management. On its basis, the initial deposit provided by the land buyer for the purchase of land in installments decreased from previous 20% to 10 % of the price and the interest payments on the acquisition for enlargement or creation of family-run holdings changed from 4% to 2% annually (till the end of December 2013<sup>8</sup>). As a result of the introduced changes, the sales realized by the Agricultural Property Agency in the next years grew rapidly. This is visible particularly in 2013, when the land area of over 147 thousand ha, including approx. 88 thousand ha (59.6%) referring to the payments in installments, was sold [Biuletyn ... 2014a]. The record results were accompanied by favorable changes in the internal regulations related to the Agency's functioning<sup>9</sup>. They included, among others, the sale of agricultural land in installments under the limited tender method or pre-emption right for creation or enlargement of the family farm, secured only by a mortgage or a blank bill. The land sales system beneficial for the farmers interested in enlarging the farms was also tightened up. Their representatives, appointed by the Chamber of Agriculture, could be included to the tender committees and, inter alia, at their request the Agency withdrew from conducting tenders in the case of reasonable suspicion concerning the intention of unauthorized persons to participate in it. For this reason, in 2013, 194 tenders were canceled, referring to the area of 4,877 ha, out of which the majority of cases (85%) related to the West Pomeranian province [Biuletyn ... 2014a].

Table 2. Selected data on the sale of land by the Agricultural Property Agency of the State Treasury in 2010-2013

Specification	2010	2011	2012	2013
Sale of land total (thous. ha)	96,5	125,1	132,2	147,7
including non – bid procedure	53,3	67,1	86,9	92,9
Proceeds from the sale of land (million PLN)	1 569,8	1 776,2	1 899,5	lack of data
Number of tenders organized	87 966	93 637	80 554	60 005
The area of land offered for sale in tenders (thous. ha)	174,7	204,6	132,4	109,8
Number of restricted tenders organized	820	798	4 406	4 314
including the farmers enlarging the holdings	820	798	4 405	4 311
The area of land offered for sale in limited tenders (thous. ha)	7,7	9,7	18,4	34,1
Sale of typical agricultural land (thous. ha)	91,3	122,0	130,6	145,2
The average selling price of typically agricultural land (PLN/ ha)	15 281	17 165	19 288	21 813

Source: author's own study based on the reports on activities of the Agricultural Property Agency of the State Treasury in the years 2010-2013.

For several years, the Agency has been pursuing a similar strategy based on selling the majority of land by the tender process, mainly to existing tenants. It also organizes more

<sup>8</sup>Starting from January 1, the interest rate was 3,75% (the base rate announced by the European Commission increased by 1 p.p.) [Biuletyn...2014a].

<sup>9</sup>In 2013 the president of the Agricultural Property Agency (APA) introduced three edicts regarding: the preservation of the APA receivables (no 7/2013), the principles of the property lease of the Agricultural Property Agency of the State Treasury (no 9/2013), the property sale of the Agricultural Property Agency of the State Treasury (no10/2013). The first one came into force on January 13, the two remaining on January 21.

limited tenders, thus favoring a specific group of buyers listed in Art. 29 of the Act of 19 October 1991 on the Management of Agricultural Property of the Treasury. These are mainly individual farmers who fulfill the conditions defined in the Act of 11 April 2003 on the Formation of Agricultural System<sup>10</sup>. In the years 2010-2013, 10,334 auctions were organized resulting in the acquisition of approx. 69.9 thousand ha (Table 2).

The dynamic growth in the number of the limited tenders has emerged from the state policies in terms of offering the land to farmers extending the holdings [Biuletyn ... 2013]. Numerous Agency activities are subordinated to this goal including, inter alia, the exclusion of land from properties of larger area covered by the lease agreements and their acquisition at the private market on the basis of pre-emptive and buy-back rights aimed at redistribution by means of sale [Podgórski, Świętochowski 2014].

Although in the course of economic growth agricultural land has been relatively losing its importance by the process of its being substituted by other factors [Johnson 2002], the changes of the area structure still are a prerequisite to improve the production performance of farms and the income situation of the population associated with them.

From the historical perspective, the increase in farm size is one of the fundamental regularities of their development. This depends, however, on a number of internal and external factors [Steinhouser and others...1982]. As the estimates of the Agricultural Property Agency show, within the 20 year period over half of the acquired land became part of private households. During this period, inter alia, 330 thousand of such units from the area group below 100 hectares increased their property by an average of 5.3 hectares and further 5.2 thousand from the area group over 100 hectares by 324 hectares respectively [Biuletyn ... 2014c]. What should be emphasized is the fact that the area structure of farms in regions of the state-owned land location (mainly west and north), is much more beneficial than in other parts of the country, and the impact of the Agency is being weakened by the decreasing acreage of land that is available for distribution [Rynek ziemi ... 2014].

The intensification of the privatization of state-owned agricultural land through sales for the benefit of so-called family farms has recently been the main functional objective of the Agricultural Property Agency. This follows directly the basic law<sup>11</sup>, which indicates in Art. 23 that these type of units are the basis of the agricultural system in Poland. This is of vital importance in the upcoming perspective of 2016, when the restrictions on the sale of agricultural property to foreigners will be lifted. Until then, the Agency intends to sell the maximal area of land and to bind the remaining part by lease agreements in such a way which will enable its future purchase under the pre-emptive right [Aktualne możliwości ... 2012].

The amendment to the Act on the Formation of Agricultural System, which was recently adopted by the Parliament and comes into force on 1 January 2016<sup>12</sup>, introduces, inter alia, the changes to the Law on Management of Agricultural Property of the Treasury,

<sup>10</sup>In the light of the Art.6, the individual farmer is a natural person who is the owner, has the right to perpetual ownership, is an *autonomous possessor* or the leaseholder of that agricultural property with the total area not exceeding 300 hectares, has the agricultural qualifications and is, for at least 5 years, the resident of the commune where one part of that farm is situated and operates this farm personally (consolidated text of Journal of Laws of 2012 No. 0, item 803).

<sup>11</sup>The Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws No. 78, item 484, as amended)

<sup>12</sup>The Act of August 5th, 2015 on the development of the agricultural system (Journal of Laws of 2015 No. 0, item 1433).

favoring the formation of this type of unit. One of the reasons is the exclusion from the turnover of agricultural land owned by the Agency of all speculative-focused buyers, for the benefit of individual farmers who intend to use it for running their own farms. This should be conducive to protection of this precious and increasingly deficient production factor.

### **Determinants, scale and effects of the preferential land purchase loans subsidized by the Agency for Restructuring and Modernization of Agriculture**

The recently observed development of the agriculture sector would not have been possible without the participation of the Agency for Restructuring and Modernization of Agriculture, which from the beginning of its operation was implementing the state aid instruments. These were mainly the subsidies to interests on investment loans granted by banks from their own capital, available through country-wide branch networks providing farmers with access to preferential loans. In 2013 the Agency cooperated with 7 banks. As the result of support in the form of interest rate subsidies, it paid out a total amount of more than 516.2 million PLN, relating both to newly granted subsidies and to loan liabilities from previous years<sup>13</sup>.

Table 3. The scale and effects of preferential land purchase with loans subsidized by the Agency for Restructuring and Modernization of Agriculture in the years 2010-2013

Years	Outstanding loans (mln PLN)	The area of land acquired (thous. ha)
2010	1 067,0	73,2
2011	1 443,1	89,6
2012	1 157,0	65,7
2013	1 214,6	55,6
Total	4 881,7	284,1

Source: author's own study based on reports on the activities of the Agency for Restructuring and Modernization of Agriculture in the years 2010-2013.

Over the period considered, aid was granted in accordance with the principles set out in the Regulation of the Council of Ministers dated 22 January 2009 on the implementation of certain tasks of the Agency for Restructuring and Modernization of Agriculture<sup>14</sup>. It broadly defined the purpose of loans, allowing the implementation of various types of projects. The individuals running the farms could, inter alia, take a loan to purchase agricultural land, but none of the preferential credit lines could be allocated for this purpose

<sup>13</sup> In 2013 the Agency continued the realization of financial support in the form of subsidies for interest on loans granted before 30 April 2007 and loans granted under the conditions set out by the European Community guidelines on state aid in the agriculture and forestry sector for the period of 2007-2013. Poland, after a three-year transition period, was obliged to adjust the state aid rules to the ones applied by the European Union. Granting preferential loans under new terms began on May 1, 2007 [Sprawozdanie z działalności ... 2013].

<sup>14</sup> The Regulation of the Council of Ministers dated 22 January 2009 on the implementation of certain tasks of the Agency for Restructuring and Modernization of Agriculture (Journal of Laws of 2009 No. 22, item 121, as amended).

if it resulted in exceeding the farm area over 300 hectares. Taking into consideration the purpose of loans, it can be stated that in the period of 2010-2013 they allowed to purchase more than 284 thousand ha with total allocation of 4 881.7 million PLN for this purpose (Table 3).

The aid related to the purchase of agricultural land was granted within the lines marked by symbols nIP, nKZ, nMR and nGR<sup>15</sup> and in the form of partial repayment of the loan capital for investment in agricultural holdings (CSK symbol). The latter instrument, introduced for the first time at the end of 2010, has become the alternative to the already existing investment loans, for which the Agency on the behalf of the borrowers paid the interest rates dues to the banks (Table 4).

Table 4. Selected parameters of credit lines enabling the financing of the agricultural land purchase (at the end of 2013)

Specification	Credit lines			
	nMR	nKZ	nGR	nIP
The maximum loan period (number of years)	15	15	20	8
The maximum grace period for the loan repayment (number of years)	2	2	2	2
The loan interest rate (%) *	4,125	4,125	4,125	4,125
The interest rate paid by the borrower to the bank (%)	3,0	3,0	3,0	3,0

\*Variable interest rate not higher than 1.5 rediscount rate for banks bills accepted by the Polish National Bank to rediscount on an annual basis

Source: author's own study based on the report on the activities of the Agency for Restructuring and Modernization of Agriculture in 2013.

The analysis of lending purposes on the basis of credit lines shows that the improvement of the area structure of farms was mainly the result of support from preferential credit lines with the nKz symbol. Due to the financing obtained from this line, over the period considered, farmers bought in total land of over 236 thousand ha, with the majority falling into the regions of Greater Poland, Kuyavian-Pomeranian, Warmian-Masurian, Mazovian and Lower Silesia. It should be noted that, out of more than 24 thousand loans granted, 95.2% of them were aimed at enlarging existing holdings and the remaining 4.8% to create new ones (Table 5).

Over the period considered, the regulation dated 22 January 2009 was amended several times. Significant modifications in the existing rules on granting loans by banks cooperating with the Agency were introduced, inter alia, on 18 September 2012<sup>16</sup>. They were particularly associated with the reduction of the maximum amount of preferential loans for the purchase of farmland by a single entity, resulting in the possibility of granting them to a larger number of interested people. There was also the prohibition, extended to all

<sup>15</sup> nIP - loans for investments in agricultural holdings, the special agricultural production sections and processing of agricultural products and the purchase of shares or stakes; nKZ - loans for the purchase of agricultural land; nMR - loans for the farm creation and its equipment by the individuals under 40 years of age; nGR - loans for the purchase of agricultural land for creating or extending the family farm under the Act of 11 April 2003 on the Formation of Agricultural System.

<sup>16</sup> The date when the Regulation of the Council of Ministers dated 21 August 2012, amending the regulation on the implementation of certain tasks of the Agency for Restructuring and Modernization of Agriculture, came into effect (Journal of Laws of 2012 No. 0, item 988).



credit lines, against using this kind of financing for creating new farms with an area below the average for the given province, which was announced on the basis of the payment provisions under the direct support scheme.

Table 5. The scale and the effects of preferential crediting for the purchase of agricultural land under the credit line nKZ by voivodeship (accumulated data for the years 2010-2013)

Voivodeship	The number of loans granted			Outstanding loans mln PLN	The area of land acquired in thous. ha
	total	for the aim of the extension of existing farms	the creation of new farms		
Lower Silesia	1 654	1 580	74	323,9	21,3
Kuyavian-Pomeranian	3 195	3 107	88	533,4	24,7
Lublin	2 738	2 645	93	192,6	15,6
Lubusz	487	447	40	121,8	13,1
Łódź	1 871	1 760	111	159,9	10,9
Lesser Poland	188	183	5	14,7	1,1
Mazovian	3 688	3 474	214	383,8	23,3
Opole	1 432	1 397	35	255,3	19,1
Subcarpathian	330	315	15	44,4	4,4
Podlaskie	1 855	1 772	83	213,8	13,7
Pomeranian	978	952	26	236,3	13,9
Silesian	158	150	8	39,3	2,3
Świętokrzyskie	633	571	62	39,5	3,7
Warmian-Masurian	1 218	1 158	60	276,3	23,5
Greater Poland	2 986	2 832	154	618,9	29,8
West Pomeranian	616	534	82	181,3	16,0
Total	24 027	22 877	1 150	3 635,2	236,4

Source: author's own study based on reports on the activities of the Agency for Restructuring and Modernization of Agriculture in the years 2010-2013.

The possibility of granting the proper aid under the European Union Council decision, which was mentioned in the introduction, expired at the end of December 2013. In order to ensure the continuation of support for the purchase of agricultural land from the national funds after that date, the Ministry of Agriculture and Rural Development prepared an amendment to this regulation, which came into force on 9 May 2014<sup>17</sup>. The introduced legislation provided the possibility for aid to be executed in two forms: by loan financing in part not exceeding 10% of investment costs including the purchase of agricultural land<sup>18</sup>

<sup>17</sup> The Regulation of the Council of Ministers dated 4 April 2014, amending the regulation on the implementation of certain tasks of the Agency for Restructuring and Modernization of Agriculture, came into effect (Journal of Laws of 2014 No. 0, item 527).

<sup>18</sup> Aid is granted under the European Commission Regulation No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001.

and financing the purchase of agricultural land only in the formula of de minimis aid in the agriculture sector<sup>19</sup> [Biuletyn ... 2014b]. The currently applied Regulation of the Council of Ministers of 27 January 2015 on the detailed scope and execution of certain tasks of the Agency for Restructuring and Modernization of Agriculture<sup>20</sup> allows, inter alia, to provide a new kind of support to young farmers. Pursuant to § 4.1, they can use partial repayment of the loan granted for the creation or enlargement of the farm. It should be noted that, as it is the same for the considered period, the loan on the purchase of agricultural land may be granted if, in the last 10 years preceding the date of application, this type of project was not covered by aid from public funds [Biuletyn ... 2015].

The operation of farms is connected with various barriers which could include the barrier of scarce investment and accumulation capacity [Tomczak 1997]. The accumulation of capital from internal agricultural sources is slow and insufficient for the dynamic structural changes in agriculture and therefore, with its growth, the importance of external sources of funding is increasing [Kulawik 1995], including loans granted on preferential terms. The loan facilitates undertakings which would not be viable without external funding [Woś 1985].

The opponents of preferential crediting of agriculture believe that this places a burden on the state budget and the financial resources excluded from circulation in this way hit the market sector, characterized by the low effectiveness of their use. It is difficult to agree with such a statement, taking into consideration the fact that subsidies to preferential loans in Poland have recently accounted for no more than 0.3% of budget expenditures. On the other hand, their share in total investments in agriculture was incomparably higher [Kulawik 2013]. There are many examples of a positive impact of preferential loans on the situation in the sector. This is based, inter alia, on the experience of economically developed countries which for many years pursued a policy of active support [Woś 1996].

## Summary

The basic determinants of the development of business entities include their propensity to invest, thus the investing directions depend on the nature of the entity. In the case of farms, with their core business focused on different forms of agricultural land management, the expenses are particularly targeted at land extension, either by its purchase or lease.

The mechanism of investment decisions made by farmers is complex because of the overlap of the long-term objectives - relating to the evolution of the farming business and the short-term goals - resulting, inter alia, from changes in agricultural policy. It could be postulated that in the period of 2010-2013, one of the main motivating factors to purchase agricultural land was the preferential conditions of its acquisition. This can be confirmed, inter alia, by the analysis of sales for that period realized by the Agricultural Property Agency. It showed a steady increase and their cumulative amount surpassed by over a quarter the results obtained in 2006-2009. Although currently there still is a possibility of dividing the payments into installments, but starting from 2014 it is a worse option in terms of value for money. As a result, the sales reported by the Agency in 2014 amounted to

<sup>19</sup> The aid is granted under the European Commission Regulation No 1408/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector.

<sup>20</sup> The Journal of Laws of 2015 No. 0, item 187.

approx. 120.5 thousand ha which represents a decline of more than 18% in comparison to the record-breaking 2013.

The sales deterioration is also visible in the case of land purchased on the basis of loans granted by banks cooperating with the Agency for Restructuring and Modernization of Agriculture. In 2014, farmers using this type of aid bought only approx. 11.8 thousand ha, with the average annual result of approx. 71 thousand ha obtained over the period considered. Just as in the case of the Agricultural Property Agency, this is the effect of the introduction of new solutions in the forms of public aid resulting from the adoption of European Union regulations.

The study confirms the opinion presented in different sources about setting out favorable conditions for Polish farmers over the period considered for acquisition of agricultural land for the creation of new farms and expansion of existing ones. The question remains, however, whether the results achieved in the form of purchased land could be better. The question is justified by the results of the survey presented in the report Poland, Village and Agriculture in 2013. They show, inter alia, that only 37% of respondents living in villages were aware of the existence of the possibility of purchasing the land from the Agricultural Property Agency with the division of payments into installments or through a low-interest-bearing loan with a subsidy from the Agency for Restructuring and Modernization of Agriculture. Even the smaller part of respondents from this group (33%) knew that the Agricultural Property Agency might organize limited tenders aimed at the local farmers planning the extension of their holdings. Although the outcome of the survey presented above is better in comparison to that obtained in previous editions of this study, it can be interpreted as the result of the low effectiveness of the information policy.

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