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## Challenging Access to Land in Central European Countries: Some Comments on the “Bundle of Rights” and “Webs of Power”

**Abstract:** Access to land is often presented as a matter of simple national legal norms. This article develops an empirical analysis of how the conditions of access to farm land were set up in the wake of the restoration of private property as part of the transition to a market economy, and then changed following the accession of Central European countries to the EU. It shows how legal and social norms overlap, combine and contradict each other, reflecting the evolving power dynamics between land holders, land owners or farmers, land-market control agencies and national authorities. Land concentration is the result of competition between social actors to capture and consolidate a “bundle of rights” over land and capital. Recent changes in land-tenure regulations have eased the emergence of “webs of power” that are characteristic of a new agrarian capitalism.

**Keywords:** access to land, property rights, land ownership, bundle of rights, webs of power.

### 1. Introduction

There are a number of reasons why access to land is a complex issue in Central European countries. Firstly, over the course of the 20th century, these countries underwent a series of agrarian reforms that resulted in a significant transformation of the conditions of access to land. Following the end of the communist regime,

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the political decision to break with the collectivist system paved the way for a redistribution of property rights on agricultural land based on a variety of criteria depending on each country's structural legacy. The restoration of property rights triggered a restructuring of land use conditions in the new context of a market economy. Preparing for accession to the European Union (EU) involved rebuilding the institutional legal framework to regulate issues relating to land ownership and use rights. Since their accession to the EU, conditions of access to land have changed under the impact of the Common Agricultural Policy (CAP) and in line with national land policy objectives. Our aim is to identify the main trends in the shifting conditions of access to land and the way in which the various categories of stakeholders have undertaken the challenge. We propose revisiting the main findings of a long-term research work that has tracked the way in which land ownership structures have been reshaped over the last 30 years (Maurel 2021). The focus will be on the post-EU accession period, while taking full account of the various processes and paths of decollectivisation that preceded it.

## **2. Recovering Access to Farmland in the New Context of a Market Economy**

### **2.1. The Conceptual Framework of the “Theory of Access” to Land**

Access to land is often presented as a matter of simple national legal norms. We would like to make reference to the “theory of access” as it was formulated by two well-known anthropologists (Ribot, Peluso 2003). They define access as “the ability to derive benefits from things”, broadening from property's classical definition as “the right to benefit from things”. In this way, “ability” and “right” are two different notions that need to be distinguished. Unlike the legal concept of “rights”, the term “abilities” may encompass both endowments, entitlements and capabilities available to a person or group of people. According to these authors, access emerges within power structures and has to do with the abilities of actors to benefit from “things”. Having access implies an “ability” on the part of a person that is akin to the power they can exercise to influence their property relationship with other persons, without any apparent constraint. As a social and legal relationship, property is made up of normative rules that determine the conditions of use, acquisition and transmission of things. The metaphor of the “bundle of rights” refers to the rights and duties held by individuals or groups over “items of property” (Benda-Beckmann, Benda-Beckmann, Wiber 2006). Property rights might take the form of a wide variety of arrangements depending on the legal institutions, as well as on the social relations and practices specific to a given society, according to political and economic circumstances.

As a heuristic framework, the “theory of access” provides a set of conceptual tools relevant to organising the empirical analysis of the structural and relational mechanisms, including but not limited to property relationship, which enable actors to gain, control and maintain access to a land resource. Once a political regime intends to substitute a new source of legitimisation of property, the elements making up the “bundle of rights” need to be redefined and reorganised, and the conditions of access change *de facto*. In the context of the transition to a market economy, the use of the concept of “access”<sup>1</sup> makes it possible to analyse the way of taking the land, by legal or illegal means, and through different modes of acquisition. In the aftermath of 1990, political change laid the foundations for a new property regime on the basis of which individuals and social groups set out to obtain access to land (Hann 2003). At that time, the basic questions were the following: who claimed ownership rights and who received them when private property was reintroduced? What kind of use was made of these entitlements? Who managed to appropriate the land of former collective farms and by what means?

## 2.2. A Comparative Neo-Institutionalist Approach

Based on the concept of “access to land”, we have built a methodological framework for analysing changes in land ownership from the initial redistribution of private property rights to the present agrarian structures through the gradual transformation of agricultural holdings of varying size and legal status (individual or family farm, cooperative, limited company, etc.). It is part of a neo-institutionalist approach that is attentive to the constraints of national legacies as well as to the timescales specific to the adaptation of institutions in each of the countries studied. It takes into account the meanings and functions attributed to property relations, i.e. to the set of rules defining the rights and interests of social actors. The aim is to contextualise and compare the trajectories of land tenure systems in post-collectivist countries that have joined the EU. System changes do not follow an unequivocal path; they depend on the property relationships that characterise them and the values that societies place on land. The comparative approach emphasises the singularity of the path-dependent trajectories specific to each country.

The spatial context of the research project is linked to the conditions in which it was initiated and then progressed over three decades. Starting in 1990 with only

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<sup>1</sup> As the right tool, “access to land” allows us to overcome the semantic ambiguity of the words “property” and “ownership”, which have different meanings depending on whether we are dealing with legal systems inspired by Latin Law or by Common Law. It is especially relevant when comparing national legal systems with different traditions, as regarding Central European countries.

three countries – Hungary, Czechoslovakia<sup>2</sup> and Poland – the investigation was extended to Lithuania, following its independence. In a comparative perspective, the scope of survey has been extended to other post-collectivist countries, Estonia and Latvia, Bulgaria and Romania,<sup>3</sup> but has left out Slovenia and Croatia.<sup>4</sup> These countries share certain resemblances in terms of their agrarian heritage, as they formerly belonged to the Europe of large estates, of late and incomplete agrarian reforms, and then to the sphere of the extension of collectivism. The simultaneous exits from the collectivist system have not failed to highlight the similarities of the agrarian trajectories, without denying the specificities of each national state.

At the beginning of the survey, the privatisation process was observed at the local level of the former state farms and cooperatives. Fieldwork was carried out in close cooperation with Polish, Czech and Hungarian research teams (Maurel 1998). The decision to convert collective farms triggered an initial sequence of upheavals in agrarian structures, which lasted throughout the 1990s. Collectivist farms moved away from previous modes of operation to restore land and capital ownership and to seek ways of adapting to the market economy. These processes were highly selective, leading to the bankruptcy of some former collective farms and their dismantling.

A second phase of transformation began during the pre-accession period and took full effect following European integration from 2004 onwards. Structural changes continued in the form of a reorganisation of ownership relations and a move towards land concentration, which took place mainly at the initiative of operators in position to take the control of the means of production.

Without giving up on fieldwork, the investigation was supplemented by collecting statistical data on regional and national scales, to characterise the various forms of the restructuring and how land resources were distributed between them according to their physical size and other criteria such as standard output, the amount and the nature of labour, legal status, etc. Particular attention was paid to analysing the legal frameworks for regulating property relations (regulation and control of land acquisitions), and to setting up land administration systems that meet European standards. The information used comes from a wide range of sources, including legislation adopted in the various countries, official EU reports, publications by European research centres, and statistical data from the Eurostat database from 2005 onwards. Although the study area includes all the new member states (which joined in 2004 or 2007), the analysis cannot be as detailed for each of them in the context of a summary.

<sup>2</sup> At that time Czechoslovakia was a single state.

<sup>3</sup> Bulgaria and Romania joined the EU in 2007.

<sup>4</sup> Slovenia and Croatia, which emerged from the former Yugoslavia, had agrarian structures specific to their political systems.

### 2.3. Restoring Private Property in the Context of Decollectivisation (1990–2004)

The post-collectivist transition initiated a radical transformation of property as an institution, fundamentally linked to the re-establishment of market-economy mechanisms. Placed on the political agenda in 1990, the restoration of private ownership of land was conceived and implemented in the form of an agrarian reform, echoing the historical struggles for access to land (Siegrist, Müller 2015). The rehabilitation of private property was followed by a redistribution of land property rights between the rightful claimants (Halamska 1997). Depending on the country, the legal arrangements combined various approaches: restitution or compensation of confiscated property to former owners, allocation of new land rights to agricultural workers (or rural households), the leasing (or possibly purchase) of land under the responsibility of the state land fund or state agency. Several categories of beneficiaries were designated: former owners or their heirs, cooperative members, and state farm workers. Property rights to land resources were assigned to hundreds of thousands of small landowners whose interest in the agricultural use of the land varied widely. Effective appropriation depended on the initiative of social actors and on their ability to set up a farm, which required access to technical equipment, capital and know-how. Most of the time, the cooperative members and workers did not have the necessary abilities, whereas the group of “specialists” (technicians, engineers) and management staff had the requisite decision-making capabilities. Hence the reshaping of property relations benefited those who were best able to mobilise social and economic capital to take the land (Halamska 2008). As can be seen, holding property rights was just one way of gaining access to land. From that time on, the “bundle of powers” has prevailed over the “bundle of rights”.

As defined by the laws adopted by new elected parliamentary assemblies, the privatisation arrangements of the former collective farms concerned production capital (buildings, equipment, machinery, etc.), the value of all physical assets was transformed into capital shares allocated to the beneficiaries according to pre-defined criteria. The procedures for converting former collectivist structures to the market economy were implemented without any real consideration for the viability of the successor farms. Whatever their effects on landownership, the institutional mechanisms governing decollectivisation process dissociated the three factors of production – land, capital and labour – which had previously been under the same management on collective or state farms (Halamska, Maurel 2010).

## 2.4. Regulating the Ownership and the Use of Land: Building New Legal Systems

The reconfiguration of land tenure systems took place over a much longer period than just the redistribution of property rights over land and the transformation of the legal status of farming structures. As a logical consequence of the introduction of market-economy mechanisms, agricultural land acquired a use value as a production tool and an exchange value as a commodity. Such values call for the formulation of new rules to regulate the “bundle of rights and utilities” over land, i.e. the rights to use, alienate and transfer land. Depending on the country, institutional changes have taken place under a variety of legal systems. Based on the restoration of the legal concept of private land ownership, the privatisation process was followed by a complete overhaul of land tenure systems. The various national systems of land ownership bear the mark of legal foundations partly inherited from their history, partly changed or amended by newly adopted constitutions and civil codes. Property relations were rebuilt on the basis of each national legal system determining exchange rules and regulating land markets. Their implementation, which mobilised public administrations, took time. The regulatory instrument most widely used in legislation concerns restrictions on the acquisition of land ownership, such as limiting the size of farms according to their legal status, requiring transactions to be registered, granting pre-emptive rights in the event of sale, and so on (Swinnen, Vranken 2007). Analysis of the rules governing access to land includes all the measures taken to protect the various actors – owners, owner-operators, tenants – and to prevent excessive fragmentation.

## 2.5. Post-collectivist Farm Structures on the Eve of Joining the EU

Post-collectivist agricultural structures have depended to a large extent on the political choices made by each state regarding the path to restoring private landownership. Property rights over land were allocated to a large number of beneficiaries, while rights over productive assets were distributed among various groups of actors. As a result, the combination of the production factors (land, capital and labour), which must be operational at farm level, were subject to various strategies on the part of the most proficient stakeholders. In a large number of cases, a group of managers got their hands on the capital, often illegally, and seized the land with a view to setting up viable production units (Swain 2013a). This initiative aimed to overcome the extreme fragmentation of land ownership by renting land from small landowners (Hartvigsen 2014). In this way, privileged access to land was maintained for the benefit of large farms and their management (Sklenicka et al. 2014). By separating property rights over land from those over

capital, privatisation policies have paved the way for a rearrangement of production factors that has given rise to a relative diversity of farm types.

- The smallest farms have their origins in the former auxiliary plots allocated to farm workers for their own use (self-consumption). Land redistribution policies have enabled these plots to be enlarged (in Lithuania up to 3 ha). These self-subsistence micro-farms have played a decisive social role in providing additional income to households affected by rural unemployment during the transition of the system.
- New individual and family farms of various sizes were set up by former owners who were able to gain access to land through the restitution or compensation of their property. These new small or medium-sized farmers have encountered a lot of difficulties in accessing credit, receiving appropriate technical assistance and selling their produce on the market, which have quite often led to the failure of the initial project.
- New owners cooperatives (or neo-cooperatives) and public companies (resulting from the conversion of state farms) have undertaken to transform their legal status in order to clarify land relations ownership, stabilise production capital and consolidate their management. A so-called “second wave of privatisation”, initiated by the group of former managers and specialists, consisted of converting owner cooperatives into limited companies. These large-scale companies managed to take over the land by renting it from small landowners unable to cultivate it. This new type of property relations forms the basis of a “reverse tenancy”<sup>5</sup> system that has become the predominant way of restructuring farms in the Czech Republic, Slovakia, Bulgaria, Estonia, and is widely used in Hungary and Romania (Amblard, Colin 2009). Although not as large as their predecessors, these macro-holdings have often managed to preserve a land surface area of several hundred hectares.

On the eve of EU accession<sup>6</sup> a number of agricultural systems (Czech Republic, Slovakia, Estonia, Bulgaria) were characterised by a predominance of large-scale farms, which accounted for a large proportion of the utilised agricultural area (UAA). In Hungary, Lithuania and Latvia, the structural profiles combined small, medium-sized and large farms, while that of Romania was characterised by a sharp agrarian duality, with a large number of small farms and a few large farms. In Poland, where the privatisation of state farms was still under way, small and medium-sized family farms still predominated.<sup>7</sup>

<sup>5</sup> “Reverse tenancy” refers to situations in which small landowners lease land to better-off tenants such as large landowners (Colin 2014).

<sup>6</sup> See the first column of tables 1 and 2, which show the distribution of agricultural area by farm category in 2005, i.e. at the time when these countries joined the EU.

<sup>7</sup> Poland had escaped total collectivisation and preserved a predominantly family-style agriculture.



### 3. Gaining and Maintaining Access to Farm Land in the Aftermath of Joining the EU

#### 3.1. Adjusting to the EU Conditions

Accession to the EU was an important challenge for the candidate countries, for whom joining the EU was the main goal of a painful transition of their political, social and economic systems. However, the restructuring carried out was far from achieving the expected convergence with the old EU members. Despite the efforts to prepare for accession, changes were still needed to reach EU performance levels. At the heart of the negotiations between the candidate countries and the EU Commission was the transposition of the Community *acquis*<sup>8</sup> into the national legislation of each member state. As far as agriculture was concerned, the acceptance of Community rules and standards required major adjustments, which were the subject of negotiations on this specific chapter.

The main points of divergence between the EU Commission and the candidate countries concerned the entitlement to direct payments under the CAP and the amount of these payments, the determination of production quotas, and the acquisition of agricultural land within the area of EU law related to the free-movement principle governing the EU internal market. The most serious difficulty concerned the conditions of access to direct aid for the new member states. Since direct payments were part of the Community agricultural *acquis*, new entrants could not be excluded. The agreement (reached in December 2002) provided for gradual access to direct CAP aid over ten years. The support through the CAP was arranged in the form of payments based on area. However, the distribution of these payments showed a diversity of situations in terms of the degree to which this aid was concentrated on certain categories of receiver. Whatever the country, large-scale farms have been the preferred beneficiaries of the Single Payment Scheme.<sup>9</sup> The implementation of these financial support measures has exercised a powerful lever for land concentration through its effects on exclusion of a large range of small and medium-sized family farms, permanence of large-scale farming and its enlargement via clustering of large corporate production units (Swain 2013b).

For all the candidate states, access to their land market was of crucial importance. Underlining the risk of a price explosion on their land markets, the majority of them wanted to maintain the greatest control over their land markets

<sup>8</sup> The candidate state must be able to incorporate all existing European standards into its national law.

<sup>9</sup> On 26 June 2003, EU farm ministers adopted a fundamental reform of the CAP and introduced a new Single Payment Scheme (SPS or Single Farm Payment) for direct subsidy payments to landowners.



by negotiating a derogation from the principle of free movement of capital within the EU. A moratorium of between seven and twelve years, depending on the country, was granted to the new member states to enable them to postpone the entrance of European investors into their land-purchase market (Swinnen, Vranken 2009). However, the sticking point regarding access to their land market was likely to reappear after the expiry of the transitional restrictions on the acquisition of agricultural land by outsiders from other European countries.

### 3.2. Large-scale Farm Land Concentration

An overview of the entire post-accession period (2005–2020) can be drawn up on the basis of data from Eurostat (Farm Statistical Survey). The process of land concentration towards fewer and larger farms is underway to varying degrees,<sup>10</sup> with the total number of farms falling sharply, from one-third to more than two-thirds (with the exception of Slovenia), while the agricultural area has remained nearly stable or even slightly increased. Structural changes are the result of two opposite trends: the obvious decline of small farms of less than 5 ha; the strengthening of large farms of over 100 ha. Depending on the orientation of government majorities, national policies may have opted to encourage a family-farming model grounded on owner-cultivation (Poland, Slovenia, Lithuania), or have supported the corporate farming model established on renting land (Czech Republic, Slovakia, Estonia, Bulgaria). The choice between these two models is less clear-cut, at least in the official discourse, in Hungary or in Romania.

Small-scale farming is in rapid decline everywhere (table 1). The elimination of the smallest farms is a foregone conclusion in the Czech Republic, Slovakia, Estonia, Bulgaria and is proceeding in Hungary, Latvia and Lithuania. Despite a decline of a similar magnitude, Poland and Romania, these small farms still hold more than a tenth and around a quarter of the total UAA respectively. With an area of less than five hectares or often less, poorly equipped and practising a self-sufficient mode of production, these micro-farms are driven more by a social than an economic rationale (Halamska 2016a; 2016b). Taking part marginally in the market and without a plan for the future, the vast majority of them are on the way to dissolution. However, these small farms have played and have still performed a decisive role in supporting rural employment and in maintaining the social fabric of rural areas. This is why targeted initiatives have been put in place by the CAP to improve their social and economic conditions, such as support for

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<sup>10</sup> Physical measures such as hectares of UAA can be used to analyse farm structures and compare them across different countries, or over time.

**Table 1.** The dissolution of small farms of less than 5 ha (2005–2020)**Tabela 1.** Zanik małych gospodarstw rolnych o powierzchni poniżej 5 ha (2005–2020)

NMS	In the total UAA (%) 2005	In the total UAA (%) 2020	Change in number of farms (%)	Change in UAA (%)
Bulgaria	13	2.5	–83.3	–68
Czech Rep.	1	0.3	–87.4	–65.8
Estonia	4	0.3	–90.6	–91
Latvia	8	3.5	–46.7	–46.9
Lithuania	13	5.4	–48.9	–57.1
Hungary	8	4.1	–76.5	–46.7
Poland	18	11.7	–61.1	–33.2
Romania	37	24.4	–32.6	–56.9
Slovenia	23	19.9	–2.0	–15.2
Slovakia	2	0.7	–87.3	–70.2

Source: own calculations based on Eurostat Data.

Źródło: opracowanie własne na podstawie danych Eurostatu.

the so-called “semi-subsistence” farms under the second pillar (Davidova et al. 2013). Despite this specific support policy, the economic marginalisation suffered by these small farmers may lead to a form of deprivation of the benefits of access to private ownership of land, in other words to their demise.

Since accession to the EU, a new phase in the restructuring of large farms has begun, under the influence of two main mechanisms. On the one hand, land concentration has been stimulated by the simplified system of direct payments (EC 2021), creating rent effects for the benefit of large farms (Swain 2013b). On the other hand, the regulation of land markets at national level has helped to consolidate their foundations by protecting them from the entrance of foreign investors. Several governments have taken action in land transfers through the sale of state-owned land. Various preferential allocation practices (auctions, insider dealing) have led to the transfer of land to the largest structures (for example in Hungary). Under the combined effect of these processes, the concentration of land holdings has continued to reach higher levels of concentration in most of the new member states (NMS) than in most of the old member states (table 2). In the Czech Republic, Slovakia and Bulgaria, where the proportion of large farms was already high, the concentration process has stabilised, while it has accelerated in the Baltic States and in Romania (Alexandri et al. 2020), where

**Table 2.** The expansion of large farms over 100 ha (2005–2020)**Tabela 2.** Ekspansja dużych gospodarstw rolnych o powierzchni powyżej 100 ha (2005–2020)

NMS	In the total UAA (%) 2005	In the total UAA (%) 2020	Change in number of farms (%)	Change in UAA (%)
Bulgaria	75	75	99	60
Czech Rep.	88	86.4	17	−4.1
Estonia	65	80	46	44
Latvia	33	63	69	125
Lithuania	28	55	34	50
Hungary	62	65	69	21
Poland	17	23.2	94	33
Romania	38	47.8	79	17
Slovenia	7	7.5	4	9
Slovakia	92	88.5	25	−4.6

Source: own calculations based on Eurostat Data.

Źródło: opracowanie własne na podstawie danych Eurostatu.

the importance of large farms is higher or close to the European average (50% of the UAA).

Only Poland and Slovenia stand out with significantly lower figures, with large farms accounting for just 23% and 8% of the total UAA respectively. In all NMS, although the importance of large farms is increasing, their average size is tending to reduce, at over 200 ha (Poland and Lithuania) and remaining larger than 600 ha in the Czech Republic and Slovakia. Between the two extreme categories, medium-sized farms (from more than ten hectares to less than a hundred) show varying trends from country to country, strengthening their position in Poland and maintaining a significant role in Lithuania (Maurel 2015). Over the last 15 years, the restructuring process has resulted in a vast transfer of agricultural land to larger structures, either medium-sized farms in some countries, such as in Poland and Lithuania (Mačiulytė 2009), or large farms of the order of hundred to a few thousand hectares in the great majority of NMS.

A typology can be proposed to illustrate the path-dependent character of agricultural trajectories:

- A first profile, organised around a dominant group of large farms, is characterised by the preponderance of salaried labour and the pre-eminence

of the “reverse tenancy” land system. Estonia, the Czech Republic, Slovakia, Bulgaria and Hungary fall into this category. All of them have succeeded in reducing the number of small farms.

- A second profile stands out, with a majority of small and medium-sized farms using direct or mixed tenancy and family labour. In keeping with the tradition of peasant farmers attached to the land, Poland (Halamska 2016a) is still characterised by a dominant family farming model.
- Between these two extremes, Latvia and Lithuania maintain a relative duality of structures, combining large farms based on salaried employment and medium-sized family farms. Direct tenancy farming predominates, although it is not overwhelming. In Romania, the duality of structures is expressed by the over-representation of small farms and a concentration of land in favour of large-scale farms (Alexandri et al. 2020). Two-thirds of farmland is rented.

## 4. Controlling the Access to Land

### 4.1. Limited Access Under State Control

Following the expiry of the moratorium negotiated when they joined the EU, most of the NMS undertook to modify their legislation regulating land transactions. From this perspective, a number of questions have arisen concerning the regulation of the land market and the protection of property rights: to defend which values and according to which economic and social objectives? To protect which interest groups (farmland owners, tenants, non-farmer owners)? In essence, it is about deciding who will ultimately control access to the land (Swinen, Van Herck, Vranken 2016). The new land market measures regulating transactions, may apply to prior administrative approval of operations on the land market, the obligation for the purchaser of agricultural land to farm it themselves, or to have qualifications in the field of agriculture and to reside or do business in the country concerned, the intervention of pre-emption rights in favour of tenants, neighbouring farmers or the local population and, possibly, the prohibition on land sales to legal persons. Public authorities have formulated the various land-market regulations to achieve their political agenda.

Faced with the risk of outsiders entering their land markets, several Central European and Baltic governments have passed new laws tightening the eligibility criteria for acquiring land and strengthening administrative control over land transactions. Although the set of measures varies widely depending on the agricultural policies' objectives, they share a stated goal: avoiding significant increases in land prices linked to the probable entrance of foreign investors into their

markets. Furthermore, most of the NMS have been keen to uphold full sovereignty over their farmland, as a resource of vital importance to the nation. In this way they were attempting to preserve a kind of status quo. The European Commission asked them to review their legislation considered as infringing on the principle of free movement of capital within the EU. Lithuania, in 2017, and Slovakia, in 2018, agreed to remove most of the previously adopted restrictions concerning EU nationals. In the case of Hungary, Act No. CXXII of 2013 on agricultural and forestry land transactions irritated the European Commission, which initiated infringement proceedings against this member state. The provision cancelling usufructs on arable lands for foreigners without providing any compensation for rights-holders was firmly condemned by the European Court of Justice in May 2019.

A number of measures were designed to guide market transactions in favour of the type of farm structures that the authorities intend to promote or under pressure from various competing interest groups (agro holdings, farmers' unions). For example, such regulations as pre-emptive rights of neighbouring farmers, may protect the interest of current land users by raising barriers to entrance for potential new investors by easing the purchase of land by some kinds of domestic investor, these new regulations have created particularised or non-inclusive institutions (Ciaian et al. 2017). Selective by nature, the various types of measures reveal the relative balance of power between the diverse interest groups in the land market (Swinnen, Van Herck, Vranken 2016). The land-market regulations will likely result in reduced competition and thus affect land prices, sale transactions, and access to land.

A detailed analysis of the land-market measures recently introduced in the EU member states has highlighted the high level of supervision of the land market in the vast majority of the NMS (Vranken et al. 2021). Nine of them (Hungary, Poland, Croatia, Romania, Lithuania, Latvia, Slovakia, Slovenia, Bulgaria) are characterised by a high number of measures steering their land markets. Only two, Estonia and Czech Republic, have opted for a liberal approach to their land markets by adopting a small number of regulations.

Do these recently introduced land regulations match the configuration of specific ownership relations? The following three situations may provide some answers: a land tenure system dominated by large-scale corporate farming in Slovakia, the lasting imprint of agrarian dualism in Hungary, and a land policy favouring private family farms in Lithuania.

In Slovakia, most of the agricultural land (79%) is in private ownership and state ownership represents about 6%. The rest of the agricultural land belongs to the so-called land of unknown owners (about 14% of all agricultural land), which is administered by the Slovak Land Fund (Lazíková et al. 2015). With 4,4

million people owning land in the form of small plots, land ownership is highly fragmented. Thanks to the role of the rental market (90% of agricultural land), land use has remained concentrated in favour of large structures such as corporate farms covering hundreds of hectares (81% of the UAA). These large holdings rent the land mainly from natural persons (around 50%), from the Slovak Land Fund, from cooperative members and from other institutions. This is why Law No 504/2003 Coll. on the lease of agricultural land, is an important legal instrument for all participants in the land market. Slovak law protects the user (lessee) more than the owner (lessor) (Lazíková, Bandlerová 2015). The law on land lease has already undergone several amendments to find the right balance between the rights of landowners and agricultural producers and the legal certainty in their relationship (Lazíková, Bandlerová 2022). Nevertheless, unclear or obsolete legal norms still remain binding. Act No 140/2014 on the acquisition of land ownership introduced new requirements limiting the purchase of land by EU nationals, but most of these provisions were repealed by the Constitutional Court of Slovakia, in November 2018<sup>11</sup> (Színek Csütörtöki 2022).

The structural profile of Hungarian agriculture is relatively diversified in terms of legal status, size and work forms, whether family or salaried. A previous law on land, passed in 1994, has prohibited the purchase of land by cooperatives and companies, but allowed them to lease it from small landowners (59% of the total UAA are rented; FADN 2019). Individuals may not own more than 300 hectares, while the ceiling for cooperatives and companies was set at 2,500 hectares. Land concentration has grown mainly to the benefit of the largest holdings, more specifically in the form of corporate farms, which account for more than half of the total UAA. Presenting himself as the protector of small and medium-size farmers, since 2010 the Hungarian leader Viktor Orbán has promoted an ambiguous land policy. The number of small farms has fallen sharply over the last 20 years, medium-sized farms of between ten and 100 hectares have managed to expand, while the bulk of the land concentration process has benefited large-scale farms. Law CXXII/2013<sup>12</sup> concerning agricultural and forestry land trade laid down rules regarding the acquisition of property rights to lands, the institution of usufruct right over such lands, the use of land, the control on restrictions relative to the acquisition of land, and rules regarding the role of local land commissions. Defensive measures have imposed restrictions on foreign landowners (such as the cancellation of their

<sup>11</sup> The Constitutional Court has confirmed the unconstitutionality of parts of the act on land acquisition that also coincide with the problems raised by the EU. The decision of the Constitutional Court has resulted in a cardinal change, especially regarding the acquisition of agricultural land, because now not only natural persons, but legal persons can also acquire unrestricted ownership of agricultural land in Slovakia.

<sup>12</sup> <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC128905/> (access: September 2018).

usufruct contracts on land). Provisions have allowed the authorities to give priority to selective categories of buyers through the intervention of district land offices and local committees. De facto, the acquisition strategies of agri-businessmen and their relatives have been greatly eased, particularly when state-owned land has been auctioned off. The official ambition of land regulation is to promote fair allocation and access to agricultural land, but criticism has been voiced that certain measures restrict economic freedoms without preventing the risk of land speculation (Győry, Kovách 2023).

Lithuania has experienced a U-turn in its land regulation policy. Adopted in 2014, an amendment to the law on land ownership of 28 January 2003, No IX-1314, imposed restrictive rules comparable to those enacted by other Central European states, namely conditions of professional qualification, a period of residence and at least three years' agricultural activity. The amendment made the purchase of land by European citizens subject to an authorisation issued by the National Land Service. The European Commission asked Lithuania to review legislation considered to be an obstacle to the free movement of capital within the EU. Following a change of government, on 23 November 2017 Lithuania agreed to modify the law.<sup>13</sup> With regard to the acquisition of land, the previous provisions were partially eliminated in such a way as the discrimination against non-resident EU citizens disappeared. The scope of the law is intended to prevent speculation in agricultural land and preserve traditional forms of farming; to create conditions for the development of viable land holdings and land consolidation; and to promote the rational use of agricultural land. The law specifies the obligation to farm the agricultural land purchased. It establishes a maximum agricultural land area that can be owned: a natural/legal person or related persons can acquire additional agricultural land as long as the total area acquired from the state does not exceed 300 ha and the total area belonging to them does not outstrip 500 ha. The law determines that pre-emptive rights are enjoyed by co-owners, tenants, adjacent landowners, farmers (natural or legal persons) who cultivate land in the municipality or in a neighbouring municipality, and the state.

As a result of privatisation policies and their legal underpinnings, land regulations in the NMS look very heterogeneous in terms of land sale and rental markets. The mechanisms governing access to land must be seen as power relationships. The outcome of maintaining control over farmland depends on the resources that distinctive social groups can mobilise to assert their views. New land regulations are often aligned with the interests of those well-embedded in powerful "webs

<sup>13</sup> Law No. XIII-801 "On purchase of agricultural land". <http://www.fao.org/faolex/country-profiles/general-profile/en/?iso3=LTU> (access: September 2018).



of power” (Ribot, Peluso 2020).<sup>14</sup> For instance, the relations between investors in the agri-food sector and political leaders can be analysed as forming a “web of power” (see further 4.2).

#### 4.2. Securing Land Control Through Capital Concentration

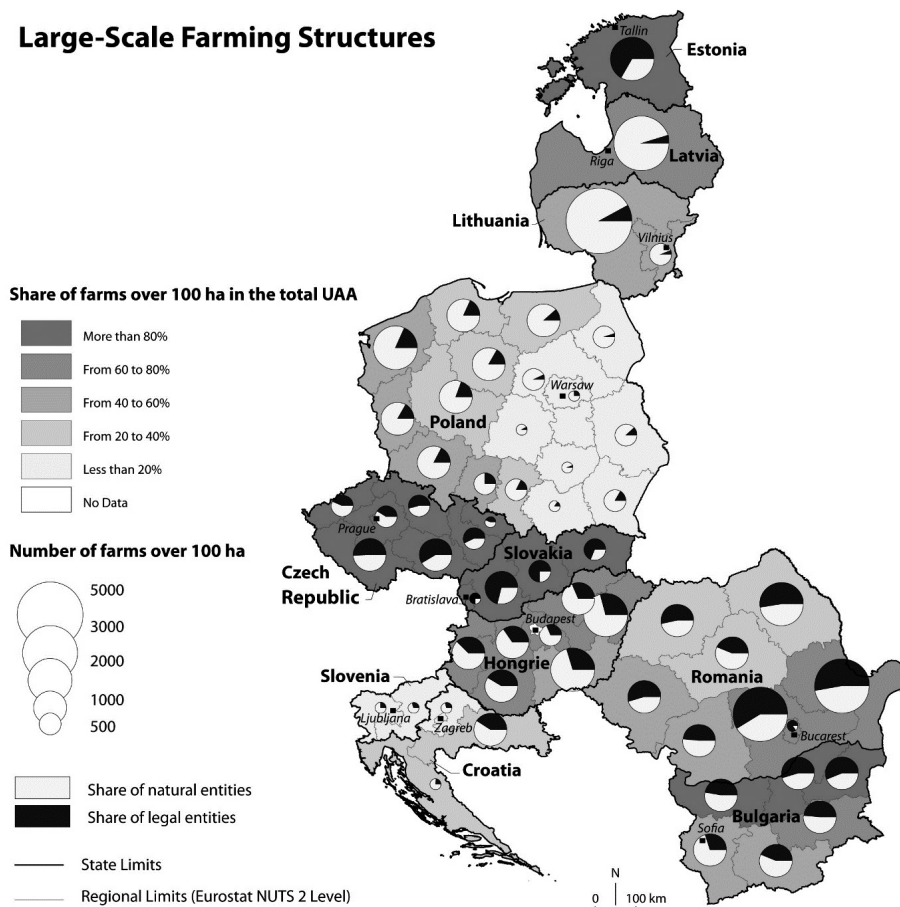
Largely predominant in the Czech Republic, Slovakia, Estonia and Bulgaria, large farms are in the majority in Hungary, Lithuania and Latvia, and almost the same in Romania. Two categories of large farms can be distinguished according to the legal status of the holder: natural or legal persons.<sup>15</sup> Corporate farms account for a large proportion of farmland (in terms of UAA) and are larger than those run by individuals. This kind of farm predominates in Slovakia (88% of the UAA), the Czech Republic (79.1%) and Estonia (76.5%), and accounts for more than half of the area held by large farms in Hungary (Transdanubia, Alföld), in Romania (Oltenia, Muntenia and Dobroudja) and in northern Bulgaria. In Poland and in Lithuania, where large farms have less importance, corporate farms are marginal (Figure 1).

Large farms have become the setting for new property relationships, combining land leased from a large number of small landowners, with production capital controlled by a handful of shareholders and with a predominantly salaried workforce. Land concentration through “reverse tenancy” has thus become the dominant path to agrarian restructuring. The predominant role of this “reverse tenancy” system explains why the rental market outweighs the purchase market in terms of transactions. As a result, there is a clear correlation between the relative proportion of farmland rented out and the number of large corporate farms. Two factors have influenced the concentration of land in favour of large farms. On the one hand, the method of allocating direct payments on the basis of the area of land, which is a powerful lever by supporting rent-seeking effects in favour of large corporate farms. On the other hand, the ways in which land markets were regulated by state authorities that have achieved the retention of control over national land markets. Some of the NMS governments have been able to intervene directly in the land-transfer movement, by auctioning off the land of former state

<sup>14</sup> According these two authors, the notions of “bundles of powers” and “webs of power” refer to the mechanisms configuring land access, access maintenance and control.

<sup>15</sup> We are referring to the EU statistical definitions: the holder of the agricultural holding is the natural person, group of natural persons or legal person on whose account and in whose name the holding is operated and who is legally and economically responsible for the holding, i.e. who assumes the economic risks of the holding. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Holder\\_of\\_agricultural\\_holding](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Holder_of_agricultural_holding) (access: June 2024).

## Large-Scale Farming Structures



**Figure 1.** Large-scale farming structures

### Rysunek 1. Struktury rolnictwa wielkoobszarowego

Source: own study based on Eurostat (2020).

Źródło: opracowanie własne na podstawie Eurostat (2020).

farms in the first two decades of the 21st century. The supply of land has mainly benefited large farms, many of them in the hands of agribusiness interests.

The large-scale farm model has facilitated the expansion of agrarian capitalism in the form of a new version of “corporate agriculture”, driven by a novel generation of businessmen and supported by various forms of direct and indirect government interventions. While the transformation of large farms into companies was the stunning success of former collective farm managers converted into company

directors, the emergence of new forms of capitalism has been driven by businessmen from other economic sectors. The penetration of external capital has been attained by selecting the most attractive segments of the agri-food chain (cereal crops, industrial livestock farming) when acquisition or takeover opportunities arose (Lacquement, Maurel 2020). A few of them have managed to set up large industrial and financial groups structured in the form of agro-holdings. Each has its own identity, reflecting the background of its founder, its management style and the balance of power within the group. The accumulation of capital in various forms of banking and industrial assets is carried out under the control of a decision-making centre which organises the group's structures to maximise profit. These agro-holdings seek to expand their production base while developing a logic of vertical integration, which leads them to combine large farms with industrial manufacturing, marketing and logistics service companies. The agro-holdings have thus initiated a twofold movement to overtake land resources and to concentrate the production apparatus. With the "financialisation"<sup>16</sup> of agriculture, the control of land transactions has become an important issue for national economic interests. The agricultural section of the Agrofert Group,<sup>17</sup> the largest in the Czech and Slovak agriculture and food industry, comprises a network of companies for supply and purchase in agriculture, companies producing seeds, feed and also companies focused on arable and livestock primary production covering around 149,000 ha. In Hungary, the Bonafarm Group<sup>18</sup> comprises major companies in the agri-food sector (dairy products, meat processing, wines), five agricultural companies (43,000 ha) which originate from former state-owned complexes privatised in the 2000s. The formation of these groups is the result of an almost uninterrupted series of growth operations (company takeovers, restructuring, etc.) carried out on the initiative of businessmen who are part of an oligarchic type of capitalism. While these agro-holdings are part of a trend towards the "financialisation" of agriculture that can be observed elsewhere in the world, they have particular characteristics because of the collusive links that their holders have forged with the political leaders who protect their economic interests. Avoiding the restoration of family farms, a large number of Central European countries, at the forefront Czech Republic, Slovakia, Hungary, Estonia, have experimented with a more direct path towards a corporate farming under agribusiness control.

<sup>16</sup> The "financialisation" of agriculture refers to a multitude of phenomena: speculation on agricultural markets; farm financing; the influence of financial actors on the organisation of value chains, etc. Our study focuses on one particular aspect: the takeover of agricultural land by financial players, such as institutional investors, agribusiness firms. The specificity of the present "financialisation" movement lies in the development of "own and operate" or "lease and operate" investment strategies.

<sup>17</sup> <https://www.agrofert.cz/en/agriculture> (access: May 2020).

<sup>18</sup> <https://bonafarmcsoport.hu/en/group-member-companies/bonafarm-agriculture/> (access: May 2020).

Polish agriculture has not escaped the process of land concentration in the form of large farms that support the dynamism of the agricultural and agri-food sectors. Restructuring under the CAP has enabled medium-sized (from 30 ha to 100 ha) and large farms (more than 100 ha) to expand their surface area. A process of capital accumulation, benefiting more than 10,000 large farms, has enabled agrarian capitalism to penetrate agriculture. At the same time, regional disparities have widened. The western part of the country is seeing the development of dynamic, high-performance agriculture, particularly in Wielkopolska. In Lower Silesia, in Lubusz voivodship, in Western Pomerania, Pomerania as well as Warmia and Masuria, competitive business farming has taken over from the large state farms, whose land has been used both to expand entrepreneurial family farms and to establish large company-type farms, comparable to those found in neighbouring countries (Lacquement, Maurel 2020).

## 5. Conclusion

Beyond the historical narrative, analysis in terms of “path-dependency” has made it possible to think about the sequence of events, to identify the critical junctions and to propose a comprehensible view of the whole process from recovering access to land to securing control of it<sup>19</sup> (Maurel 2021):

- In the context of the transition to a market economy, the restoration of private ownership of land has assumed a paradoxical character, since property rights were based on an agrarian structure that was largely outdated from the point of view of the present economic and social conditions. The reforms aimed at decollectivisation led to a disjunction between the landowners whose land property rights were restored and the members of the collective farms holding the working capital. The break-up of the “bundle of rights”, which occurred at that time, was the obvious consequence of the dissolution of the social relations of agrarian collectivism.
- In a second stage, the “bundle of rights” was partially reorganised. Conversion paths of agrarian structures were the result of actors who drew their strength from their ability to mobilise a large range of resources (professional know-how, information network, managerial capacity). In the absence of an appropriate legal framework, transitional social forms have taken over, seeking accommodations to secure access to land and means of production. From then on, effective controlling access to land resources took precedence over formal property

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<sup>19</sup> All of this research project, carried out over the last thirty years, has led to the publication of a summary book (Maurel 2021).

rights. A movement to capture the levers of control has begun on the initiative of former farm directors, who, using the land base of the collective structures, have succeeded at least partly in preserving large successor farms. Their managers organised themselves to seize decision-making powers and gradually real rights over farm capital (the so-called “second wave of privatisation”). This process was highly selective. In a dominant position on the renting land market, particularly at local level, they were able to impose terms of the land-use rights on lessors. The extent of the “reverse tenancy” system settled the disjunction of the “bundle of rights” and the pre-eminence of abilities controlling access to land.

- Although the process of gaining access to land resources was well underway by the turn of the decade 2000, it still needed to be consolidated. The third stage began with the accession of the NMS to the EU and unfolded in two stages, during the moratorium on land purchase and after its expiry. To complete the takeover, an elite of entrepreneurs attempted to secure control over land by benefiting from state interventionism through land regulations. In a few years, the spread of large-scale agriculture led to the disappearance of small subsistence farms and the dispossession of small landowners.

Scenarios of land-resource integration based on unprecedented financial arrangements are developing everywhere, even where they were least expected (Poland, Lithuania). They may be carried out by agro-industrial groups seeking to consolidate national sovereignty (Hungary, Czech Republic, Slovakia) or take the form of land grabbing by foreign investors (Romania, Bulgaria).

The revival of private property is not sufficient to guarantee access to land, as long as the breakdown into “bundles of rights” makes it possible to control the right to dispose of and alienate its use, particularly the segments that interest the “webs of power”, in other words, investors who hold financial capital.

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## Wyzwania związane z dostępem do ziemi w krajach Europy Środkowej. Kilka uwag na temat „pakietu praw” i „sieci władzy”

**Streszczenie:** Dostęp do ziemi jest często przedstawiany jako kwestia prostych krajowych norm prawnych. W niniejszym artykule rozwinięto empiryczną analizę dotyczącą tego, w jaki sposób warunki dostępu do gruntów rolnych kształtowały się w następstwie przywrócenia własności prywatnej w ramach przejścia do gospodarki rynkowej, a następnie zostały zmienione po przystąpieniu krajów Europy Środkowej do Unii Europejskiej. Artykuł przedstawia też, jak normy prawne i społeczne nakładają się na siebie, łączą i zaprzeczają sobie nawzajem, odzwierciedlając zmieniającą się dynamikę władzy między posiadaczami gruntów, właścicielami gruntów lub rolnikami, agencjami kontroli rynku gruntów i władzami krajowymi. Koncentracja gruntów jest wynikiem rywalizacji między podmiotami społecznymi o przejęcie i konsolidację „pakietu praw” do gruntów i kapitału. Niedawne zmiany w przepisach dotyczących własności gruntów ułatwiły powstawanie „sieci władzy”, które są charakterystyczne dla nowego kapitalizmu agrarnego.

**Słowa kluczowe:** dostęp do ziemi, prawa własności, własność ziemi, pakiet praw, sieci władzy.