



Land grabbing and land concentration in Europe

A Research Brief



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Table of Contents

| | |
|---|----|
| Introduction | 3 |
| 1. Land grabbing: a contested term | 4 |
| 2. Land grabbing in the EU unpacked | 6 |
| 3. The state of land in Europe today | 13 |
| 4. Policy recommendations | 18 |
| Endnotes | 26 |

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Introduction

In discussions on the 'global land grab', the popular term to describe the rising commercial interest in farmland and the increase in large-scale land deals worldwide, Europe is often overlooked.¹ Instead, Europe is held up as a showcase for good land governance, where well-regulated land markets and sound land investments are assumed to prevail. To the extent that the role of Europe in the global land grab is addressed, it is through the involvement of European investors and policy drivers in land deals *in the global South*.²

This brief aims to fill this research gap by examining the scale, scope, drivers and impacts of land grabbing in Europe. Drawing together cutting-edge findings from the study *Extent of Farmland Grabbing in the EU*,³ commissioned by the European Parliament (EP) and presented to the EP Committee on Agriculture and Rural Development (COMAGRI) in June 2015, it shows that there is significant evidence that land grabbing is underway in Europe today.

Land grabbing is however just one element of the 'land question' in Europe and it is in this sense that the brief draws broader connections between the ongoing but still limited process of farmland grabbing in Europe and other burning European land issues, not least the extreme levels of land concentration observed throughout the EU. If left unchecked, there is a danger that land grabbing and land concentration, particularly when reinforced by other processes and policy biases (e.g. land speculation, land artificialisation, and the highly uneven distribution of CAP benefits), will block the entry into farming of young and aspiring farmers, while leading to the further exit of Europe's small farmers.



This has real implications for European food security, employment, welfare, and biodiversity as with the demise and marginalisation of small-scale farming in Europe, the multiple benefits of this type of farming system and way of life also disappear.

A new approach to land governance throughout the EU is called for. The brief ends with a set of policy recommendations for reforming European

land governance. Using insights from the FAO Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, the brief argues that a fundamental shift in emphasis from a market-based to a human rights-based approach to the management of land and associated natural resources is required if the EU is to realize the smart, democratic, and sustainable land governance framework that European farmers and citizens deserve.



1. Land grabbing: a contested term

It is important to be clear **how land grabbing is approached in this brief**. Land grabbing is a contested term. While there have been attempts to pin the term down including through the use of legal constructs, there is no authoritative view as to how the term land grabbing is interpreted. The use of the term land grabbing in this brief does not therefore necessarily imply that a transaction is illegal. Indeed, many controversial land deals may be 'perfectly legal' from a strict law enforcement perspective but considered illegitimate from a social justice point of view.⁴ A purely legal understanding of land grabbing also misses the ways in which powerful actors can shape the law to their advantage (see Box 1).

BOX 1

‘White Spots’ in Bulgaria

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

Source: Medarov, G. (2013), ‘Land concentration, land grabbing and land conflicts in Europe: The case of Boynitsa in Bulgaria’, in Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 182-210.

Rather than focusing only on the legal status of a land deal, this brief approaches the issue of land grabbing from a political economy and human rights based perspective which sees land grabbing first and foremost as the capturing of the decision making power over how land is to be used,

by whom, for how long, and for what purposes. This means that land grabbing, in addition to the procedural aspects of a land deal (legal, illegal or somewhere in between), is also about the substantive implications a land deal has for democratic land control and access to land for the most vulnerable and marginalised.⁵

2. Land grabbing in the EU unpacked

From this understanding, a number of features regarding land grabbing in the EU can be identified. These are drawn principally from the official study *Extent of Farmland Grabbing in the EU* (2015), commissioned by the European Parliament Committee on Agriculture and Rural Development. This is an exploratory study regarding the process of land grabbing in the EU whose findings must as such be treated as preliminary. Nevertheless, they offer useful entry points into understanding the scale, scope and character of land grabbing in the EU today.

a) Scale

The **methodological challenges** associated with measuring the scale of land grabbing are significant, rendering the very attempt to quantify land grabbing inherently problematic. At first glance, land grabbing in the EU would appear to be a statistically insignificant phenomenon with Europe excluded from many international databases recording large-scale land transactions. Official statistical information on large-scale land deals and foreign land ownership from EU Member States themselves is also not very forthcoming, appearing to indicate that these issues are minor to non-existent in Europe. However, supplementary evidence collected from field trips, local research, media stories and personal testimonies suggest that **much is not captured in these official records**, pointing to the often covert 'under the table' nature of many of these deals.

For example, in Poland official statistics show that between 1999 and 2005, foreigners bought around 1,400 ha of land - less than 1% of the total

agricultural land.⁶ The government line is that this trend has remained more or less stable given the fact that Poland's transitional EU accession rules on the liberalisation of its land market bar foreigners from buying land until May 2016. However, according to reports by local farmers, more than 200,000 hectares of land in the province of West Pomerania have been bought by foreign companies of Dutch, Danish, German and British extraction.⁷ This has been done through the use of what are called substitute or 'dummy' buyers - Polish citizens, often small farmers, who meet the legal requirements for making a limited tender and who are hired by foreign companies to buy land and who then transfer control of it to the latter. Controversy surrounding these practices has most recently been associated with a wave of farmer protests and arrests in the country, with farmers demanding an end to the auctioning off of 'their' land to spurious buyers.⁸

A similar phenomenon has been observed in Hungary where official records (that show that less than 2% of agricultural land and/or farmsteads were foreign owned between 2005 to 2006) do not take into account land acquired through the use of so-called 'pocket contracts' – a term used to describe a multitude of covert contracts that aim to circumvent legal restrictions on transacting land (Box 2). When these are taken into account, foreigners are estimated to own around 400,000 ha (about 6%) of agricultural land in 2008, rising to an estimated 1 million ha in 2013.⁹

These cases suggest that the true scale of land grabbing in Europe is underreported in official statistics (such as national land registries) and is, as such, best described as a **limited but creeping phenomenon**.

b) Scope

The **geographical distribution of land grabbing in the EU is uneven**, with particular regions and countries more affected than others. Preliminary evidence indicates that farmland grabbing is **concentrated in Eastern European Member States**, with Poland, Hungary, Bulgaria, and Romania emerging as particular hotspots. The reasons for the concentration of land grabbing in Eastern Europe are manifold:

BOX 2

'Pocket Contracts' in Hungary

The term 'pocket contracts' originally referred to land deals where the date of purchase remains unspecified and the contract is kept 'in the pocket' until the moratorium on land sales is lifted. These contracts are not recorded in the land register so that, although the official record shows that a Hungarian citizen owns the land, in practice a foreign person owns the property. The term is now used to describe a multitude of contracts that aim to circumvent legal restrictions on transacting land, with one Hungarian County Agricultural Chamber identifying 16 different types of pocket contracts. An estimated 1 million ha of land has been obtained using pocket contracts by foreign persons or companies over the past two decades, including of Austrian, German, Dutch, Danish and British extraction. On the dubious premise that the contracts are legal, these entities have received an estimated HUF 300-500 million (approximately EUR 1.1 - 1.8 million) worth of national and EU agricultural subsidies since Hungary's accession to the EU. Following official investigations and widespread national concern, the issue of pocket contracts has been taken up in the country's new Criminal Code of 2012 in an attempt to crack down on these land transactions.

Sources: Ciaian, P., Kancs, D., Swinnen, J., Van Herck, K, Vranken, L. (2012), 'Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries', *Factor Markets Working Paper No. 14.*, Brussels, CEPS; Fidrich, R. (2013), 'The Return of the White Horse: Land Grabbing in Hungary', in *Land Concentration, Land Grabbing and People's Struggles in Europe*, edited by J. Franco and S. Borras, Amsterdam, Transnational Institute, pp. 138-157.

First, **relatively low land prices** in Easter European countries compared to Western European Member States have been a major incentive for investors to acquire farmland in these countries. Indeed, the variation in land prices

can be substantial. In 2009 for example, while the nominal agricultural land price in Poland stood at €1,000, this was five times higher in France, ten times higher in Spain, twenty-six times higher in Denmark, and forty-seven times higher in the Netherlands.¹⁰ When the opportunities for accessing subsidies under the EU's Common Agricultural Policy (which, since the previous CAP reform, are now area rather than production based), are factored in, investments in farmland in these countries can appear highly lucrative.

Second, **post-Communist land privatisation, restitution and consolidation programmes** in several Eastern European and former socialist EU Member States have not always produced optimal outcomes nor served the intended beneficiaries and have, in many instances, discriminated against small farmers. The result of these processes has been the emergence of dualistic agrarian structures in which land use is both highly concentrated and highly fragmented. This has paved the way for farmland grabbing as a new class of private landowners with significant capital and often powerful political ties can easily outmaneuver smaller farmers who must compete on economically sub-standard plots of land. Sometimes, measures taken to correct this structural dualism and bolster the economic competitiveness of small farms have led to further land grabbing under the guise of 'land consolidation' (see also Box 1).

Third, lax enforcement of regulations and corruption have been contributing factors in various controversial land deals in Eastern Europe (see Box 3).

c) Character

There are a number of features that are associated with land grabbing in Europe.

They involve the establishment of large agroholdings with capital from all over the world. Sometimes, the size of these agroholdings is unprecedented and out of standard European proportions. The biggest farm in Romania for example, belonging to the Lebanese owned *Maria Group*, amounts to 65,000 ha.¹¹ With its own port and slaughterhouse, it exports meat and cereals, largely to the Middle East and East Africa. In a context in which the European model of farming

BOX 3

The new land grab entrepreneurs in Romania

In recent years, Romania has been an attractive destination for farmland investments: the number of land transactions has more than tripled in Romania between 2005 and 2009 and it is now estimated that up to 10% of agricultural land is in the hands of investors from outside the EU, with a further 20-30% controlled by investors from the EU. It is uncertain however to what extent these new 'investments' have benefitted local populations and contributed to rural development. One example, involving *Rabo Farm*, a specialized €315 million agricultural investment fund set up by the Dutch *Rabobank*, one of the world's largest agri-food banks, in 2011 offers a cautionary tale. Working through three subsidiary companies and operating through a sale-and-leaseback arrangement, *Rabo Farm* has acquired land in at least 51 Romanian villages throughout the west, south, and east of the country. While *Rabo Farm* frames their activities as responsible agricultural investments, an in-depth investigation carried out by the Romanian Centre for Investigative Journalism and *De Correspondent*, found that amongst *Rabo Farm's* leaseholders are included powerful politicians; individuals on suspended sentences for crimes including modern-day slavery, theft and bribery; and local oligarchs with strong connections to corrupt officials. In some cases, local villagers were not even aware that their land had been sold to *Rabo Farm* with the mayor simply confiscating land and assuming the authority to sell it on. At least 11 cases involving plots of land purchased by the fund are now subject to an official investigation by Romanian state prosecutors and anti-corruption authorities in connection with charges of forgery and fraud. Despite not actually farming the land themselves but operating through leaseholders, *Rabo Farm* is able to accumulate agricultural subsidies, taking advantage of vague definitions of an 'active farmer'.

An alarming picture is thus painted whereby Romania's 'land grab entrepreneurs' are "...drawing profit from a system mired in systemic corruption and entrenched poverty, and contributing to the alienation of smallholder farmers on the poorest fringes of the European Union".

Source: Dale-Harris, L. (2015), *Tales of corruption surround Rabobank dealings in Romania*, De Correspondent [online]. Accessed via: <https://decorrespondent.nl/3589/Tales-of-corruption-surround-Rabobank-dealings-in-Romania/790804243790-dbeb0905>

is still one based on small, family farming,¹² the size of the landholdings acquired in these new transactions - which can amount to sometimes thousands of hectares of land - represents a deep rupture with the system and scale that has typified European agriculture so far.

This process has gone hand in hand with the **emergence of a new asset class, made up of banks, investment, and pension funds, and other financial actors** controlling an ever-increasing share of European farmland. Not only do these non-traditional agricultural investors raise complicated questions surrounding the definition of an active farmer, they have also given rise to what have been called the new '**land grab entrepreneurs**': a rising class of brokers, middlemen, speculators and scammers who mediate corporate and state interests in land and who stand to directly benefit and profit from their promotion of these new types of land transactions (see Box 3).

The lack of transparency around land deals in a number of EU countries and the discrepancies between official records and local realities show that control over extended tracts of land does not simply occur through the routine functioning of land markets alone but **implies an 'extra-economic force'** as well. The term extra-economic force refers to special conditions offered

TABLE 1

The extent of farmland concentration in Europe, 2013

| Agricultural holdings >100ha | Number of holdings | Country total holdings | % of country total | UAA (in ha) | Country total UAA | % of country total |
|------------------------------|--------------------|------------------------|--------------------|-------------|-------------------|--------------------|
| Austria | 2,570 | 140,430 | 1.8 | 477,800 | 2,726,890 | 16.4 |
| Belgium | 2,190 | 37,760 | 5.8 | 319,600 | 1,307,900 | 24.4 |
| Bulgaria | 6,160 | 254,410 | 2.4 | 3,890,500 | 4,650,940 | 83.6 |
| Czech Republic | 4,630 | 26,250 | 17.6 | 3,065,450 | 3,491,470 | 87.8 |
| Cyprus | 110 | 35,380 | 0.3 | 18,500 | 109,330 | 16.9 |
| Denmark | 7,880 | 38,830 | 20.3 | 1,807,950 | 2,619,340 | 69.0 |
| Estonia | 1,790 | 19,190 | 9.3 | 704,080 | 957,510 | 73.5 |
| Finland | 4,610 | 54,400 | 8.5 | 704,850 | 2,282,400 | 30.9 |
| France | 97,600 | 472,210 | 20.7 | 17,169,550 | 27,739,430 | 61.9 |
| Germany | 35,160 | 285,030 | 12.3 | 9,514,330 | 16,699,580 | 57.0 |
| Greece | 1,450 | 709,500 | 0.2 | 1,689,050 | 4,856,780 | 34.8 |
| Hungary | 7,640 | 491,330 | 1.6 | 3,000,580 | 4,656,520 | 64.4 |
| Italy | 15,100 | 1,010,303 | 1.5 | 3,258,910 | 12,098,890 | 26.9 |
| Ireland | 4,770 | 139,600 | 3.4 | 1,151,830 | 4,959,450 | 23.2 |
| Latvia | 2,890 | 81,800 | 3.5 | 996,340 | 1,877,720 | 53.1 |
| Lithuania | 4,680 | 171,800 | 3 | 1,334,060 | 2,861,250 | 46.6 |
| Luxembourg | 450 | 2,080 | 21.6 | 70,430 | 131,040 | 53.7 |
| Netherlands | 2,390 | 67,480 | 3.5 | 369,190 | 1,847,570 | 20.0 |
| Norway | 660 | 43,270 | 1.5 | 93,620 | 996,270 | 9.4 |
| Poland | 10,950 | 1,429,010 | 1 | 3,043,780 | 14,409,870 | 21.1 |
| Portugal | 6,040 | 260,420 | 2.3 | 2,107,480 | 3,641,590 | 57.9 |
| Romania | 13,080 | 3,629,660 | 0.4 | 6,300,460 | 13,055,850 | 48.3 |
| Slovenia | 110 | 72,380 | 0.2 | 34,080 | 485,760 | 7.0 |
| Slovakia | 2,310 | 23,570 | 9.8 | 1,718,610 | 1,901,610 | 90.4 |
| Spain | 51,820 | 965,000 | 5.4 | 12,938,810 | 23,300,220 | 55.5 |
| Sweden | 8,030 | 67,150 | 12 | 1,677,120 | 3,035,920 | 55.2 |
| United Kingdom | 40,980 | 185,190 | 22.1 | 13,003,120 | 17,326,990 | 75.0 |

Source: Own elaboration based on EUROSTAT

by state-apparatuses (at national, regional and/or local level), good political connections, full support of governors, and to various practices of 'skirting the law'.

In sum, land grabbing in the European context is associated with land deals that:

- . Are out of standard European proportions
- . Represent a deep rupture with the European model of family farming and the structural goal of a diversified and multifunctional agricultural system.
- . Involve the capturing of decision-making power over land (how land is to be used, by whom, for how long, and for what purposes) and a far-reaching reordering of the socio-economic and ecological relations of agricultural production
- . Involve a new set of actors and investors not traditionally involved in agriculture
- . Imply an “extra-economic” force



3. The state of the land in Europe today

Farmland grabbing in Europe must be placed within the context of broader structural changes within the EU agriculture. Through its control, privatization and/or dispossession of natural resources, farmland grabbing has become an active factor in the further weakening of the socio-economic and environmental vitality of the rural sector. This is especially so when considering the state of the land in Europe today.

TABLE 2

The decline of small farms in Europe, 1990 - 2013

| Agricultural Holdings <10 ha | 1990 | 2000 | 2005 | 2010 | 2013 | 1990-2013 Variation |
|------------------------------|-----------|-----------|-----------|-----------|-----------|---------------------|
| Austria | | 108,310 | 86,310 | 72,970 | 66,680 | -43% |
| Bulgaria | | | 507,550 | 336,080 | 222,330 | -65% |
| France | 339,430 | 243,150 | 194,270 | 175,910 | 148,960 | -32% |
| Germany | 316,870 | 189,510 | 143,020 | 73,260 | 66,310 | -79% |
| Hungary | | 876,140 | 617,730 | 485,340 | 402,860 | -54% |
| Netherlands | 59,310 | 46,030 | 10,850 | 12,140 | 26,190 | -144% |
| Italy | 2,376,440 | 1,901,570 | 1,474,600 | 1,363,180 | 764,740 | -68% |
| Poland | | | 2,110,420 | 1,158,370 | 1,078,560 | -40% |
| Spain | 1,194,540 | 904,310 | 725,560 | 644,930 | 626,630 | -48% |
| United Kingdom | 62,050 | 68,520 | 96,650 | 39,370 | 38,700 | -38% |

Source: Own elaboration based on EUROSTAT

As table 1 reveals, Europe is currently experiencing tremendous and rapid land concentration. According to the EUROSTAT definition of large farms as agricultural holdings of 100 ha and more, large farms made up only 3.1% of all European farms in 2013 yet they controlled half of the total utilised agricultural area (UAA) in the EU-27. Meantime, the three quarters of farms, all below 10 hectares, controlled only 11% of the total UAA. This puts the state of land inequality in the EU, with a Gini co-efficient of 0.82, on a par with or even above countries that are noted for their highly skewed land distribution patterns such as Brazil, Colombia and the Philippines.

This process of land concentration and land inequality has particularly affected Europe's small farms i.e. those with an average UAA of less than 10 ha (Table 2). Between 2003 and 2013, the number of holdings of less than 10 hectares dropped by a third. Small farmers owning less than 10 hectares lost control over a quarter of their land, an area almost as large as Ireland. In contrast, the UAA occupied by large farms in the EU grew by 15% over the same period of time.

The corollary of the exit of small, family farms from EU agriculture is the creation of barriers to entry into agriculture for young and aspiring farmers. As the Opinion of the European Economic and Social Committee (2015) on land grabbing argues, "Land grabbing and land concentration result in those farms that had been using the land being squeezed out... This process is generally irreversible, since it is very difficult for small farmers or even for new businesses (and young farmers) to acquire land and establish themselves in this economic sector without sufficient capital". The combined effects of land concentration, land grabbing, market forces and other structural and institutional barriers are substantial and can effectively constitute a form of 'entry denial' to young and aspiring farmers.

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

Yet this multifunctional and sustainable form of agriculture is increasingly under threat by the **emergence of large, corporate agricultural enterprises** that are a feature of many of the new large-scale land deals throughout the EU. Not only have do these types of corporate agricultural enterprises, which practice a form capital intensive, industrial agriculture, carry with them negative implications for the environment and animal welfare, they also affect rural employment since the labour requirements of large industrial farms are much lower than those of family farms.¹⁴ They have also consistently been found to be less productive (per unit of labour), and more fragile (due to their propensity to acquire high debt-to-asset ratios and their reliance on volatile markets) compared to small-scale, diversified family farming.

TABLE 3
Distribution of CAP direct payments in 2013, for selected MS

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

Source: European Commission (2015), 'CAP expenditure in 2013 by MS', Member States Factsheet - European Union, Accessed via: http://ec.europa.eu/agriculture/statistics/factsheets/pdf/eu_en.pdf

The EU's Common Agricultural Policy (CAP) and its system of direct payments (subsidies) has however consistently favoured the expansion of these types of large, industrial farms, with pro-hectare payments encouraging expansion and the buying up of land in order to activate subsidies and entitlements. This has been to the detriment of Europe's smaller farmers as the subsidy regime has become highly skewed with CAP subsidies captured by a tiny elite of farmers (Table 3). Land concentration and the CAP subsidy thus shape and (re)structure each other time: as land becomes concentrated in fewer and larger holdings so the CAP subsidy becomes more concentrated as well.

This situation is exacerbated by the conversion of agricultural land throughout Europe to non-agricultural uses in a processes sometimes referred to as 'land artificialisation': the loss of prime agricultural land to urban sprawl, real estate interest, tourism enclaves, and other commercial undertakings. In France, for example, more than 60,000 ha of mostly fertile farmland are lost every year due to changing land use and re-zoning plans.¹⁵ Much of this is motivated by the extraordinary re-sale value of converted farmland with farmland being sold off for many times its original price for a whole variety of purposes, including for so-called environmental conservation or green energy production (also known as 'green grabs') such as in the case of the controversial photovoltaic energy project in the town of Narbolia in Sardinia.¹⁶

There is thus a danger that farmland grabbing will lock forces with longer-term and ongoing processes of land concentration and land artificialisation in the EU as small farmers are ceding or losing control of their land at an alarming rate. Not only does the highly skewed distribution of land in Europe conflict with the EU's structural goal of dispersed land ownership, it has the danger of introducing profound disequilibria in European society as a whole, as with land concentrated in ever fewer hands, democratic decision-making power over land is undermined. This suggests that **the ongoing (generic) trend of farmland concentration is just as problematic and deserving of policy attention as farmland grabbing.**

In sum, the state of land in Europe today is such that:

- Profound land inequality exists with Europe experiencing tremendous and rapid land concentration based on a highly undemocratic form of land control.
- The concentration of land is matched by the concentration of CAP subsidies in the hands of ever fewer and bigger land holdings.
- Serious problems exist for Europe's young and aspiring farmers who are finding it increasingly difficult to access land and who face a problem of entry denial.
- Land artificialisation is shrinking Europe's farmland and exacerbating already alarming issues around access to land.
- A precipitous decline in Europe's small farmers is underway with damaging consequences for Europe's food security, employment, and future development.



4. Policy recommendations

The following policy recommendations are offered to tackle land grabbing and land concentration in the EU.

1. **Develop a European Land Observatory for monitoring large-scale land deals and land investments.**

Accurate and useful data on the operation of EU land markets and the extent of farmland grabbing are still sorely lacking. While some

statistical tools that gather information on land tenure at EU level exist,¹⁷ these are all highly technical and, while able to generate a degree of legal certainty, say nothing regarding the substantive nature of a land transfer and whether such a transfer is justified on social equity and environmental grounds. This is also true for associated processes such as the degree of financial involvement in land and the agricultural sector where latent threats go unchecked. The creation of a European Land Observatory that would document shifts in land ownership and include important economic, social and environmental criteria could be an important step towards developing a truly pan-European and socially relevant database on the state of the land in Europe today.

2. Allow member states to better regulate their land markets according to sound public policy objectives by granting justifiable restrictions to the principle of the free movement of capital

It cannot be argued that markets naturally tend towards concentration. It is clear that that a land market based only on the four freedoms (of goods, persons, services and capital) is not comprehensive enough to tackle the risk of discrimination and marginalisation related to farmland grabbing. Land is moreover not an ordinary commodity that can be manufactured in ever larger quantities yet it serves as the basis of people's livelihoods, territories, cultures, traditions and interactions with nature and the environment. The Court of Justice of the European Union must therefore show greater flexibility in its interpretation of national measures that can be undertaken to restrict the free movement of capital according to justifiable political objectives, in accordance with article 65 of the Treaty of the Founding of the European Union.

There are a number of policy options that Member States may consider in this respect, including setting upper limits for the acquisition of agricultural land and to create a system of pre-emptive rights to help those whose landed property is below this upper limit. Member States should also support the use of land sharing arrangements and land banks that support access to land for small, young, and aspiring farmers.

3. Use the most progressive schemes available under the EU's Common Agricultural Policy (CAP) to 'deconcentrate' land and move from a baseline to a best-case scenario

Although the CAP has played a complicated role in processes of land concentration and land grabbing (see section 3), with major inequalities in the distribution of CAP payments, the new 2014-2020 CAP, reformed in 2013, proposes some interesting schemes, which, if used properly, could help to empower small and young farmers and support more equitable agrarian structures. The following recommendations are offered (Table 4) for using various schemes of the First Pillar of the 2013 CAP toolbox in order to move from the current baseline, or business as usual scenario, to a best-case scenario. It should be noted that a number of the schemes, such as the redistributive payment and the small farmer scheme, remain voluntary while others, such as the capping of payments, lack serious ambition. Moreover, the definition of an 'active farmer' (which determines who is eligible to receive CAP benefits in the first place) remains deeply problematic. As such, suggestions for improvements of the current CAP toolbox, to be considered in the mid-term review of the CAP in 2017 in the lead up to negotiations for the CAP post-2019, are also included in the list of recommendations.

TABLE 4

Recommendations for using selected schemes of the 2013 CAP toolbox

| Element of CAP 2013 toolbox | Element of CAP 2013 toolbox |
|------------------------------------|---|
| Redistributive payment | <ul style="list-style-type: none"> • adopt with the highest share of Pillar 1 • the CAP post-2019 could include a compulsory redistributive payment (by hectare capping or in function of number of hectares) |
| Capping of payments | <ul style="list-style-type: none"> • capping of the basic payment above €150,000 by applying a 100% reduction • the CAP post-2019 should consider setting up a lower capping at €100,000. |
| Young farmer scheme | <ul style="list-style-type: none"> • adopt at the maximum level i.e. 2% of the national envelope |
| Small famer scheme | <ul style="list-style-type: none"> • adopt at the maximum level of €1,250 p.a. • the CAP post-2019 should consider adjustment of scheme from a fixed payment amount to specific share (5-10%) of Pillar 1 |
| Definition of active farmer | <ul style="list-style-type: none"> • EC and MS to adopt a definition of an active farmer that is clearly anchored in the notion of work on the farm. • exemption threshold must be set much lower than €5,000 |

4. Work towards a holistic and human rights based land governance framework in the EU that integrates the social, cultural and ecological as well as economic values of land

There is no single, overarching European land policy or framework that one can speak of. Instead, competence for land in the EU is parcelled out between four different horizontal frameworks, depending on whether land is considered as a commodity (subject to rules governing the internal market), as natural capital (subject to environmental policy), as farmland (subject to CAP regulations) or as a living space (subject to Territorial Cohesion policy). The problem is that land is all of these things at once and, while the values of land as an environmental public good and as part of broader territorial development are recognized through the Land as a Resource process, the CAP's compulsory greening measures, and the EU's Territorial Policy amongst others, these values are nevertheless often subordinate to an overly economic assessment of land where land is principally viewed as a commodity, best governed through a market-based approach. This approach however consistently discriminates against non-industrial agricultural enterprises and peasant farming. It concentrates lands and holdings and, in the end, it encourages farmland grabbing in the most marginalised rural areas of Europe.

A different approach to land governance in the EU is needed – one that views good land governance not simply as a technical matter but as an issue of fundamental human rights concern. This could be done through the crafting of a new legal instrument at EU level which would aim at a comprehensive, holistic and human rights based approach to land in the EU. This could take the form of an **EU Directive on Land** which would set out a bold and progressive strategy for the governance of (farm)land

in the EU while respecting both the competences of the EU and of the Member States. As the first international governance instrument to apply an economic, social and cultural rights based approach to the governance of tenure, the **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests** can serve as an important reference for developing such a Directive (see Box 4).

BOX 4

Using the tenure guidelines in Europe

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (hereafter Tenure Guidelines or TGs) were endorsed by the United Nations Committee on World Food Security in 2012. They were **developed through an inclusive and legitimate consultative process** that involved the participation of those most affected by tenure insecurity and a lack of access to land and are notable for being the first international governance instrument to **apply a human rights framework** to land tenure and the governance of natural resources. They contain a number of important provisions for tackling land grabbing and associated burning land issues in the EU today:

- The TGs note that there are “...**risks that could arise from large-scale transactions in tenure rights**” (12.6) and outline a number of **safe-guards** that States can implement to minimise these risks including setting up land ceilings; requiring parliamentary approval for land transactions above a certain threshold; and conducting prior, independent impact assessments.
- The TGs outline the **clear responsibilities of state and non-state actors**, including business enterprises (3.2), to respect human rights and legitimate tenure rights, based on principles of **accountability, transparency, and the rule of law** and offer a **robust definition of what constitutes ‘responsible agricultural investment’** (12.4).

- The TGS provide essential guidance on how States should **regulate their land markets** by taking measures to prevent land speculation and land concentration (11.2). They comment on the importance of regulated spatial planning and a balanced approach to territorial development where the multiple functions, values, and uses of land are recognized and protected. This goes hand in hand with the promotion of a range of farming systems, production and investment models, whereby alternatives to large-scale land deals and industrial monocultures are sought (12.6)
- Crucially, the TGs call for the **participation in decision-making processes around land by those most affected** (3B6) thereby making the case for a more democratic form of land governance.

5. Push the EU institutions to act on burning European land issues

The debate within the EU institutions on the issue of land grabbing and land concentration in Europe has been somewhat sporadic and split between various European Parliamentary committees (including the COMAGRI, the European Economic and Social Committee, and the Sub-committee on Human Rights, all of which have published reports on these topics) and the European Commission (EC) which has lagged behind, having commissioned no particular research into the issue of land grabbing.

Indeed, the EC for the most part refutes the notion that land grabbing is underway in Europe, or, at best, considers it to be an issue of marginal significance occurring in Europe's peripheries. The dramatic levels of land concentration meanwhile are deemed to be "unproblematic" while the exit of Europe's small, family farmers is justified as a "...necessary and natural part of structural change",

and even the desirable and intended outcome of policies designed to encourage a shift towards more productive, consolidated and competitive agricultural units.¹⁸

This research brief has taken issue with many of these premises and assessments, contending that the nature of the land deals and land investments is such that they go far beyond the gradual observed transition to larger average farm sizes and represent a significant deviation from the European model of farming. Furthermore, while the regulation of farmland investments is, and indeed should remain, a primary competence of individual Member States, this does not obviate or contradict the call for the EC to show greater guidance with respect to tackling the issue.

A number of interesting developments are underway which are shifting the debate on land in Europe in a more positive direction. These include, amongst others, the development of the own-initiative opinion **'State of Play of Farmland Concentration in the EU: How to Facilitate the Access to Land for Farmers'**¹⁹ within the European Parliament's Committee on Agriculture and Rural Development as well as the Petition **'Preserving and managing European farmland as our commonwealth'**²⁰ presented to the European Parliament's Committee on Petitions. In both instances, grassroots organisations and social movements, such as the Hands On the Land alliance,²¹ have played a prominent role in driving these processes forward. It is hoped that these initiatives can help in the forging of new progressive way forward when it comes to land in Europe.

Endnotes

- 1 There are some notable exceptions, with the book "Land concentration, land grabbing and people's struggles in Europe" edited by Jennifer C. Franco and Saturnino M. Borrás Jr. and published in 2013 by the Transnational Institute for the European Coordination Via Campesina and the Hands Off the Land network deserving special mention (see: <https://www.tni.org/en/publication/land-concentration-land-grabbing-and-peoples-struggles-in-europe>). Relying on original fieldwork, it documents 13 country case-studies of land issues in Europe and remains one of the most comprehensive and authoritative analyses of the subject matter to date.
- 2 See for example the study authored by Cotula, L. (2014) for the European Parliament which addresses the human rights impacts of land grabbing in low and middle-income countries and the role of the EU: [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534984/EXPO_STU\(2014\)534984_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534984/EXPO_STU(2014)534984_EN.pdf) and more recently, the study authored by Borrás Jr., S.M., P. Seufert et al. (2016), looking at the involvement of European corporate and financial entities in land grabbing outside the European Union: [http://www.europarl.europa.eu/think-tank/en/document.html?reference=EXPO_STU\(2016\)578007](http://www.europarl.europa.eu/think-tank/en/document.html?reference=EXPO_STU(2016)578007).
- 3 See: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540369/IPOL_STU\(2015\)540369_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540369/IPOL_STU(2015)540369_EN.pdf).
- 4 Transnational Institute (2013). [The Global Land Grab. A Primer](https://www.tni.org/en/publication/the-global-land-grab). Revised edition. Amsterdam: Transnational Institute. Link: <https://www.tni.org/en/publication/the-global-land-grab>.
- 5 Democratic land control refers to the notion that the people that actually live on, live off, and care for the land should have a say in how that land is governed. It can be seen as an articulation of the right to land i.e. the right of working peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape. For further discussion on this concept see: <https://www.tni.org/en/publication/a-land-sovereignty-alternative>.
- 6 Ciaian, P., Kancs, D., Swinnen, J., Van Herck, K, Vranken, L. (2012), 'Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries', Factor Markets Working Paper No. 14., Brussels, CEPS.
- 7 European Economic and Social Committee (2015), *Land grabbing - a warning for Europe and a threat to family farming*, Own initiative opinion.
- 8 La Via Campesina, *Thousands of Polish farmers march in Warsaw*, February 17, 2015 [online]. Accessed via : <https://viacampesina.org/en/index.php/main-issues-mainmenu-27/agrarian-reform-mainmenu-36/1744-thousands-of-polish-farmers-march-in-warsaw>.
- 9 Ciaian et. al (2012).
- 10 CEPS, KU Leuven and JRC (2013), *Possible Effects on Land Market of new CAP Direct Payments*, Study for the European Parliament, PE 495.866.
- 11 European Economic and Social Committee (2015).
- 12 The EU is still a region of small farmers: the average farm size in the EU-28, although with great variations between MS, consisted of 14.4 ha of agricultural land in 2010.

- 13 A short explanatory note on how to read the table. The first three columns following the list of member states detail the percentage share of the total number of agricultural holdings in each MS held by the largest farms (those in the biggest UAA class of 100 ha or more). The following two columns after that give the combined UAA occupied by the large farms and the total UAA of each MS. By comparing the two percentage columns (the fourth and the final column) one can see what percentage of land is controlled by the largest farms. Thus, for example, in the case of Austria, only 1.9% of (large)farms control 18.4% of the total UAA in the country. Note that the true extent of farmland concentration is not entirely captured by this table as, while in 20 MS 'large farms' are all in the biggest UAA class of 100 ha or more, in a number of MS, the definition of what constitutes a large farm falls below this threshold.
- 14 For example, *Genagricola*, the agricultural holding division of the Italian insurance firm *Generali*, which controls 4,500 ha in Romania, generated only 62 jobs in 2013. Similarly, the agribusiness company *Transavia*, which controls 12,000 ha of land in Cluj district in Romania, generates only a dozen employees in its operations around the village of Aiton, principally for tractor driving, surveillance and the technical maintenance of equipment.
- 15 Ody, M. (2013), 'Land grabbing, Artificialisation and Concentration in France Today: Causes, Consequences and Challenges.', in Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 32-35.
- 16 For more on this case, refer to Onorati, A. and C. Pierfederici (2013), 'Land concentration and green grabs in Italy: The case of Furtovoltaico in Sardinia', in Franco, J.C. and Borras, S.M. (eds.), *Land concentration, land grabbing and people's struggles in Europe*, Amsterdam, Transnational Institute, pp. 76-99.
- 17 These include, inter alia, the Permanent Committee on Cadastre in the European Union, Farm Accountancy Data Network (FADN), the survey of the agricultural structure, and the Integrated Administration and Control System (IACS).
- 18 Cited from "Information Note: 'Study Extent of Farmland Grabbing in the EU'" (Ref. Ares 2015 -3989524), prepared by the EC(DDG2.E.1/RR/mba) and presented by Mr. Haniotis of DG AGRI at the COMAGRI session of 12 October 2015. See: http://www.bodenmarkt.info/g/BM-Ex/daten/4/2015_09_28_EU_Kommission.pdf.
- 19 The decision to go ahead with an own-initiative report (INI) on land concentration in the EU was made during the COMAGRI session meeting of Monday, 25 April, 2016. See the minutes here: <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-580.782&format=PDF&language=EN&secondRef=01>.
- 20 For the full Petition and information about its signatories and promoters see: <http://www.accesstoland.eu/Preserving-and-managing-European-farmland-as-our-common-wealth>.
- 21 The Hands On the Land for Food Sovereignty (HOTL4FS) alliance is a collective campaign by 16 partners, including peasants and social movements, development and environmental NGOs, human rights organisations and research activists aiming to conduct activities in Europe to raise awareness on issues related to the use and governance of land, water and other natural resources and its effects on the realization of the right to food and food sovereignty. For further information see: <http://handsontheland.net>.



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