

Land, an EU policy issue? Land policy debate and opportunities at EU level

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Is land an EU policy issue? Yes! CAP subsidies impact on land tenure, with 80% of subsidies going to only 20% of farms, benefiting large land holders and investors. But the original intent of the CAP is to support the livelihoods of farmers, not a handful of corporations (Treaties of Rome: "*ensure a fair standard of living for the agricultural community*").

With its [initiative report on land concentration and access to land for farmers in the EU](#), the European Parliament for the first time raises this neglected issue.

Of course, the INI-report does not ask for new legislation, since land regulation is dealt with at the national level, and the current anti-EU climate weighs heavily against any attempt of introducing new EU legislation. However, the INI-report formulates recommendations for both Member States and EU Commission - some of which can be implemented immediately, without waiting for the next CAP reform.

Lucky conditions

The outcome of a Parliament report always very much depends on its rapporteur, the MEP who drafts the report and chairs the negotiations among political groups. In this case, with Mrs Maria Noichl from the German Socialists & Democrats, the topic was in good hands. The progressive result was also made possible because the European People's Party (EPP), the biggest group in the European Parliament, was split on the issue. While Eastern European EPP members recognize land concentration is a big problem in their countries, not everyone from the Western European EPP members was quite convinced. The support from Vladimir Urutchev, the Bulgarian EPP shadow, enabled majorities in favour of a progressive outcome.

Not only was the report voted in favour, but also all of the 8 separate votes that EPP had asked for were voted down. These concern unequal distribution of payments, CAP as a driver of landgrabbing, and strong demands for redistribution for next CAP reform. They contained for example the following factual statement which some MEPs would have preferred not to be known to the public: *Whereas the actual distribution of land and subsidies could be even more unequal, as the statistics available do not make it possible to establish anything about the ownership and control of farms.* This shows that some MEPs are more concerned about covering up facts, but the good news is: They did not succeed.

As said, the result of a report is very much dependent on the rapporteur. Even though the EP pronounced itself very progressively in this report, it can easily adopt a more backward position again on other occasions.

What can be some follow-up steps to the initiative report?

Currently, the EU Commission is preparing an official answer to the initiative report. However, we are also in informal contact and there may be several possibilities for action that can be targeted already now, together with civil society actors.

a) Reform of the Agricultural Statistics

The European Parliament called for a *land observatory for the collection of information and data on the level of farmland concentration and tenure throughout the Union, that should be tasked with: recording purchase prices and rents, and the market behaviour of owners and tenants; observing the loss of farmland following changes in land use, trends in soil fertility and land erosion; and issuing regular reports*. While it remains to be seen whether a fully-fledged observatory will be set up, at the moment the [reform of the Agricultural Statistics](#) offers us the opportunity to implement some of our demands for more transparency with regard to corporate holdings and ownership structures, and land prices.

A framework regulation for [Integrated Farm Statistics](#) (IFS) is currently being negotiated by EP, Council and EU Commission. It should enter into force in 2018 at the latest, as it will replace the Farm Structure Survey regulation. The Regulation is based on individual holdings and is the right place to ask for better transparency on corporate structures and land ownership.

A second framework regulation for Statistics on Agricultural Input/Output (SAIO) is currently being drafted by the COM in close cooperation with MS, and will be published in about a year. It is the right place to ask for better transparency on land purchase prices and rents.

Together with MEPs from other groups, we made the following amendments to the IFS:

- Better transparency of holdings structures

If a holding is part of a holding structure, this must be known to the Commission, after all, it is a question of the legitimacy of the distribution of agricultural subsidies.

Germany supports this demand and now we have to convince Estonia, who will take over the next Presidency, to support the demand.

- Improved transparency of ownership structures

Power structures are very different when there are many tenants / few landowners, or vice versa, fewer tenants / many landowners.

It is also relevant to governmental interventions (for example, to ensure access to land for farmers and start-ups). In the case of bankruptcies like with KTG-Agrar, it should at least be known which areas are owned by the company.

See Annex for exact wording.

b) Reform of the Young Farmers Scheme as part of the upcoming CAP reform

One of the main aims of the INI-report is to improve access to land for small and medium size farms and new entrants. DG AGRI has emphasized that generational renewal figures high among their priorities for the next CAP reform. They plan to give extra weight to the issue by launching a “specific evaluation on generational renewal” by the end of 2017. Of course, they also defend what is already there, such as [various forms of support](#) the CAP provides to facilitate young people's entry into farming. However, the European Court of Auditors recently concluded this support was based on [“poorly-defined intervention logic, with no expected result & impact specified”](#).

The European Parliament is planning an implementation report in the first quarter of 2018, which will be authored by co-rapporteurs Nuno Melo (EPP) and Nicola Caputo (S&D). Mrs Heubuch will be the shadow for the Greens. This will be a chance to come forward with proposals for a better targeted and results-based policy in favour of new entrants.

c) Close contact with the European Commission (DG FISMA & DG AGRI)

The **Directorate General DG FISMA** is responsible for Financial Stability, Financial Services and Capital Markets Union. Why is DG FISMA relevant when it comes to concentration of farm land in the EU?

They defend the single market and European freedoms: Free movement of capital, freedom of establishment are most relevant here. When Member States regulate their land markets, they have to respect the European freedoms. Most importantly, they have to treat their own nationals in the same way as other EU nationals who want to buy or lease land. For example, if national legislation requires persons to have agricultural training in order to buy land, this can be a problem. DG FISMA will then ask: Why only to buy land, what about lease? In many countries, people can run an agricultural holding without specific training, so why do they need a training certificate to buy land? This can easily discriminate against foreigners, for example if a Hungarian education is required.

Such requirements create a legal grey zone. DG FISMA has decided to start or is planning infringement procedures against Bulgaria, Hungary, Latvia, Lithuania, Slovakia, Poland because of national land legislations that are, in their view, not in line with EU freedoms. However, a problem for DG FISMA is that they don't want to create more anti-EU feelings by being seen as acting only against Eastern European countries.

The European Parliament asked DG FISMA to publish a **recommendation** for MS on which instruments to regulate the land market are compatible with EU fundamental freedoms and which are not. The idea is to exchange best practices and experiences, rather than warning letters, because we are dealing with a trans-national phenomena and countries need to work together to solve urgent problems. DG FISMA is currently working on this recommendation, which is to be welcomed. Their consultation on the issue is now open and can be found [here](#).

In addition, we are asking them:

- to take the UN Voluntary Guidelines on land Tenure (VGGT) into consideration. This seems to be rather difficult, because voices inside the Commission don't want the EU to be seen on one level with Africa when it comes to land issues.
- to set up regular expert meetings with Member States to discuss how to improve national land legislations. However, DG FISMA thinks this is beyond their mandate, as it goes beyond their core task of clarifying what is in line with EU law.

DG AGRI - A hard nut to crack

So far, the answers of the Cabinet of AGRI-Commissioner Hogan are unsatisfactory: DG AGRI is trying to delegate responsibility to DG FISMA. But with 80% of the EU subsidies going to only 20% of farms, Commissioner Hogan cannot pretend that the issue of land concentration is not his concern! The issue could be addressed during next CAP reform, Hogan said, through better support for young farmers. But he ignores that he could already act now (statistics regulation; carrying out a consultation procedure; setting up a high-level task force; setting up a land observatory).

The fundamental position of DG AGRI is still head-in-the-sand. In a recent email exchange on follow-up to the INI-report, they wrote that they first need to ask their legal service to see if they are responsible. In response to the EP's study on land grabbing in the EU, they wrote:

The loss of farms and difficulties of finding a successor are a "[natural and even necessary process of structural change](#)". Since less than 3% of all EU farms are larger than 100 hectares, there is still room for further structural change, the Commission said.

d) Monitoring event for the implementation of the VGGT in the EU

The FAO is planning an event on October 5&6 in Rome to lead up to the 44th Session of the World Committee on Food Security (CFS). The event is co-organised with DG DEVCO (Development and Cooperation). The FAO has shown openness to discuss how the VGGT may contribute to the administration of farm land in the European context at the technical thematic forum on October 5&6. They told us that they are in touch with several civil society groups via the Civil

Society Mechanism, namely Via Campesina, FIAN, Oxfam and Action Aid. If these groups want to organise a technical thematic forum on implementation of the VGGT in the EU, this should be possible.

e) Contact with Member States

It is important for us, but also for civil society to stay in contact with Member States to ask them to give the issue more importance at EU level. Possibilities for Member States include:

- Together with the EU-Commission and/or FAO, set up regular meetings with Member States experts on land legislation, to exchange best practices and engage in a joint fight against land concentration;
- Support better data collection via the Statistics Regulations;
- Support monitoring of land concentration at EU level, including a High-Level Task Force;
- and measures at national level as sketched out in the INI-report.

ANNEX: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on integrated farm statistics and repealing Regulations (EC) No 1166/2008 and (EU) No 1337/2011 (COD/2016/0389)

Changes are marked in red

Annex III - Core data: Information to be provided

Legal personality of the holding			
-	Legal and economic responsibility of the holding is assumed by a:		
-	Natural person who is sole holder, where the holding is independent		yes/no
-	-	If yes, is the holder also the manager	yes/no
-	-	If no, is the manager a member of the holder's family?	yes/no
-	-	If yes, is the manager the spouse of the holder?	yes/no
-	One or more natural persons who is/are a partner, where the holding is a holding-group		yes/no
-	Legal person		yes/no
-	-	If yes, is the holding part of a corporate group made up of units that are legally independent, but controlled by a superordinate unit?	yes/no

Justification:

Various studies show that the number and economic importance of corporate groups who control individual agricultural holdings is constantly increasing. However, up to now agricultural statistics do not display whether individual holdings are part of such corporate structures. Data that clearly distinguishes between legal owners and operational farm managers should be collected, in order to allow policy makers to make informed choices.

Type of tenure of the utilised agricultural area (in relation to the holder)	
Farming on own land	ha
Farming on rented land	ha
- If land is rented, who is the owner of the land?	
- If land is rented, is the owner of the land a legal person?	yes/no
Share farming or other tenure modes	ha
Common land	ha

Justification:

Mapping changes in land ownership structures is an urgent task in times when agricultural land is increasingly becoming the object of speculation and a 'flight to real assets' by non-agricultural investors. It allows policy makers to track to what extent the goal of a broad distribution of land ownership by the farming community is achieved.