

**Access to land in Poland:
historical trajectory and legal framework**

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Introduction and acknowledgements

Poland's agricultural sector is one of the largest in Europe, and like in surrounding countries, has been heavily shaped by the legacy of collectivisation, liberalisation and EU accession. However, the strong peasant resistance to the Soviet-imposed collectivised model, the relatively structured and state-piloted approach to privatisation in the 1990s, as well as Poland's favourable position in accession negotiations, has enabled its family farming model to survive to this day. The strong regulations put in place to limit foreign land grabbing present a good model for relative protectionism in compliance with EU common market laws, despite persistent loopholes and barriers to a fair and effective generational renewal in the agricultural sector.

The aim of this report was to analyze the trajectory, perspectives and tools for action of land access in Poland. It was written as part of the Sciences Po "Environmental justice and ecological transition" (JETE) Law Clinic, commissioned by the Access to land (A2L) network. Thank you to A2L coordinator Cécile Duchier for her extensive guidance on the project, and to tutors Manon Bajard and Eve Aubisse for their continuous support and feedback.

The historical context provided in part 1 is largely based on Dimitri Liorit's report, "Land history and policy in Poland", published in French by Agter in 2011, which we have synthesized and updated. More recent statistics and analysis were drawn from the 2020 National Agricultural Census, Eurostat's FADN database for 2020-2023, as well as a selection of research articles, notably published by Poland's Institute of Agricultural and Food Economics. Part 2 is based on direct analysis of the Polish legal code and the website of Poland's National Support Centre for Agriculture, the national report for Poland compiled by Joanna Perzyna & Robert Skrzypczyński and published in the annexes of Ruralization's Report on legal and policy arrangements in 28 member states, as well as various online resources published by Polish law firms. Research for this report also featured interviews of experts: we warmly thank, for their time and expertise : Ruta Spiewak, Minko Georgiev, Attila Szocs, Robert Levesque, and Emmanuelle Santoire.

I. Historical trajectory and economic context

a. The legacy of occupation (19th century - 1945)

The current structure and dynamics of Poland's agricultural land can be partly explained by the legacy of foreign occupations, and their respective land tenure systems, as well as the successive border shifts preceding the collectivization imposed by the Communist regime. This legacy allows us to divide the territory into four distinct zones: the Centre, the South, the East and the Western Crescent.

Regional disparities in Polish agriculture can be traced back to the division of the national territory at the end of the 18th century, between the Prussian Kingdom, the Austro-Hungarian Empire and the Russian Empire, whose borders remained relatively stable until 1914. Before this division, agriculture in Poland was still dominated by a feudal system and Slavic customary rights: land was controlled by the nobility (szlachta), while peasants (chłopi) were often subjected to serfdom. The divergent attitudes and policies of the occupying regimes towards these two social groups, particularly in their approaches to abolishing this feudal system, shaped land tenure structures in the three occupied zones:

- the Prussian-occupied **Center**, subject to the Prussian General Land Code (1794), where serfdom was abolished in 1810. Peasants were granted titles for the ownership of land they worked, on the condition that they cede part of it to compensate the local nobility. This reform led to significant polarization between the estates of the Junkers (large Prussian landowners) and small plots of land owned by the peasantry. Agricultural modernization, coupled with the rise of industrial employment in the cities, led many of these peasants to leave the countryside and to sell their land to the Junkers.
- the Austro-Hungarian-occupied **South**, with the Austrian Civil Code (ABGB, 1811), where serfdom was abolished in 1846. Peasants were allocated the plots of land they worked, while landowners were gradually compensated through tax

revenues collected from this new peasantry. However, large landowners still held 40% of the land after this reform, while small farms struggled to develop their economic activity. Demographic growth in the countryside, and the absence of local industries compared to Prussia, led to waves of emigration while maintaining extreme land fragmentation in the region.

- the Russian-occupied **East**, where imperial law maintained serfdom until at least 1861. Despite this late abolition, the Russians' hostility to an insurrectionist nobility led them to "free" the peasantry without a heavy debt load to their former masters. This resulted in a more homogeneous distribution of land than in other occupied areas, which was also more conducive to the development of medium-sized farms. Although economic development didn't match that of the Prussian-dominated territories, demographic pressure was nevertheless kept in check by emigration to the Russian Empire and the rise of small-scale local industry.

The harmonization of land tenure systems was a major challenge following Poland's reunification after World War I. The agrarian reform of 1919 (followed by a second reform in 1933) aimed to appease the peasantry and bring about the emergence of a rural middle class. Large landowners were forced to sell their estates of over 180 ha, and many voluntarily ceded parts of their land for economic reasons (low profitability of farms, and compensation provided for under the reforms). The peasantry, on the other hand, benefited from the redistribution of expropriated land and credits for the purchase of plots. These reforms began to tackle the major inequalities in land ownership, although regional disparities persisted.

In 1920, the Law on the Acquisition of Real Estate by Foreigners restricted the purchase of land by foreign entities through a permit system, making acquisition conditional on obtaining authorization from the Ministry of the Interior. This system, although reformed and updated, remained in place until 2016 for EU nationals, and to this day for non-EU nationals.

A second major shift took place during the Second World War: the Nazi occupation and destruction of cities turned Poles into an "almost uniformly rural and

Catholic" population, with strong nationalist sentiment rooted in the countryside. Under the terms of the Potsdam Conference, Poland's borders were shifted westwards: the USSR seized territories in the east of the country (some of which are now located in today's Ukraine, Belarus and Lithuania), while Poland took over Silesia, Pomerania and Warmia Masuria from Germany.

These three provinces form a **western crescent**, with a population and agrarian structure that contrasts with the rest of the country. Many German landowners fled after the war to escape persecution, and were replaced by a diverse mix of displaced Poles and migrants from across the Soviet Union looking for land to settle. The lack of a unified rural population partly explains why these recovered provinces were disproportionately affected by the impacts of Soviet collectivization.

Although this approximate zoning does not account for all regional disparities and particularities, it does highlight how each of the zones' distinct historical contexts preceding collectivisation have affected their current agrarian land structures, in ways that are still visible to this day.

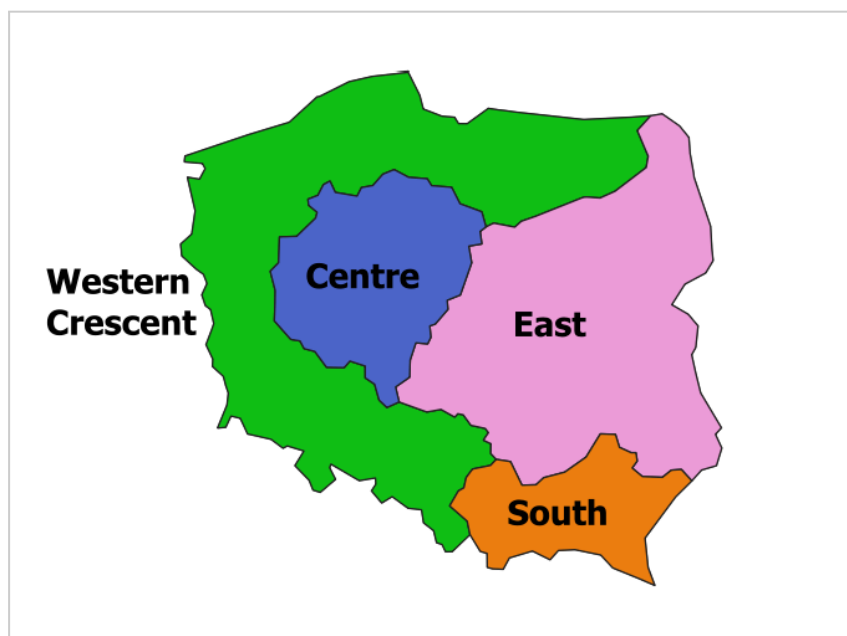


Fig. 1: Four distinct zones based on historical occupations and annexations

b. The rural socialist economy (1945 - 1956)

Under the influence of Stalinism, Poland's leadership sought to collectivise agricultural land and production in the post-war period. As the nationalist unity of the peasantry made general collectivization impossible, the Communist leader Gomulka adapted the Soviet model to promote a "socialist rural economy". The basis for this system was the compulsory deliveries of wheat, potatoes, meat and milk, through the introduction of quotas for individual farms, paid for by the state below the market price.

Post-war reforms beginning in 1945 were the result of a compromise between the Communist and Peasant Parties: collectivisation was thus accompanied by measures to redistribute farmland among the peasantry. Between 1945 and 1948, all estates larger than 100 ha (or 50 ha if more than half the land was arable) were expropriated from large landowners, who were stigmatized and branded *kulaks* by the state communist ideology. A total of 4.5 million ha were redistributed, to create or enlarge 100,000 small farms of 5-15 ha, while an additional 1.5 million ha were used to form colossal state-owned farms (PGR: Państwowe Gospodarstwa Rolne). These PGRs, which could cover up to several thousand hectares, were mainly located in the recovered territories of the Western Crescent, where they dominated 40% to 70% of the utilised agricultural area (UUA).

Collectivization policies also focused on the establishment of production cooperatives, bringing together several farms whose activities are planned and controlled by government directives and representatives. These cooperatives were given privileged access to equipment and inputs, as well as less restrictive delivery quotas.

These reforms were designed to put pressure on the private agricultural sector, aiming to gradually shift the bulk of production to PGRs and cooperatives. By 1955, however, individual family farms still accounted for the vast majority of agricultural production in Poland, despite their lack of motorized equipment and lower use of

fertilizers. Collective farm structures never exceeded 25% of the national UAA, and in 1956, PGRs accounted for only 10% of the country's agricultural output. These were mainly concentrated in the Western Crescent, and to a lesser extent in the Central regions.

c. Private and socialized sectors: coexistence, crises and contradictions (1956 - 1989)

The decades following this initial wave of collectivisation were marked by a series of policy U-turns by the communist regime, fluctuating between pragmatic and market-oriented reforms, and renewed efforts at enhanced state control of agriculture in the interests of strategic autonomy. Recurring social and economic crises, in which agricultural policies often played a central role, contributed to social discontent and growing opposition to communism.

In response to the low productivity of state-owned farms, and a rapidly growing agricultural black market, from 1956 the regime shifted their policy away from the Stalinist doctrine in favour of liberalisation of the land market. Reforms promoted higher incomes for individual farmers, improved access to inputs for smallholders, facilitated land inheritance, authorized the dissolution of production cooperatives, and reduced the tax rates imposed on *kulak* land.

This policy shifted in 1960, however. The creation of a State Land Fund was aimed at enlarging the PGRs, by enabling the State to forcibly buy up poorly cultivated land, encouraging retired farmers to contribute their land to the Fund, and making it more difficult to transfer ownership of small farms (less than 8 ha). As a result, the total number of farms plummeted over the next ten years, precipitating a production crisis, speculation on food products, and eventually the fall of the government.

Their successors initially favored individual farms, granting loans (virtually interest-free) for farm modernization and abolishing compulsory product deliveries in 1972. But the following year's oil crisis shifted policies towards attempts to restructure small farms, through the Land Fund and the creation of new forms of cooperatives, under state contract. Many small farms (less than 2 ha) managed to survive these consolidation efforts, however, through income diversification and by forming autonomous networks of suppliers and consumers. The average holding size remained close to 5 ha.

A second collapse in agricultural production in 1976 led to a crisis of rural incomes and access to land, prompting the rise of rural union movements (Rural Solidarity and Peasant Solidarity). The Rzeszów agreements, signed in 1981 between the government and the strike movement, legalized these union structures and met several of their demands:

- legal guarantees for the protection of family farms and the right to inherit agricultural land
- a progressive alignment of farmers' social rights with the rest of the socio-professional categories
- the liberalization of the land market, ensuring competition up to 100 ha

However, the continued confrontation between the government and unions culminated in the collapse of communism in Poland, bringing an end to 40 years of "relentless support for collective farming and coercive measures against private farms".¹

¹ Liorit, Dimitri. "Histoire et politique foncières de la Pologne". *Etudes d'Agter* (May 2011). https://www.agter.org/bdf/_docs/liorit_2011_pologne_politiques_foncieres.pdf

d. Transition to a market economy (1989 - 2004)

The transition away from a planned economy was initially achieved through shock therapy. Agricultural land, however, largely escaped this initial wave of brutal privatization, and land decollectivization occurred gradually in the 1990s under the supervision of specialized state agencies: the Agricultural Property Agency, the Agricultural Markets Agency, and the Agency for Restructuring and Modernization of Agriculture. The temporary continuation of the permit system, dating back to 1920, provided important protection for agricultural land against massive land grabbing by foreign investors. Nevertheless, liberalization of the land market, as well as investment and modernization programs in the agricultural sector, widened the gap between large and smallholder farming, with the latter struggling to adapt to new market conditions.

Beginning in 1989, the brutal privatization of state-owned enterprises rapidly restructured the economy, but also created mass unemployment and caused chemical input prices to soar, while those of food products plummeted. These effects were particularly devastating in the west of the country, which concentrated most of the large-scale collective structures that had been supported by state subsidies for over 40 years. Legal reforms between 1990 and 1994 enabled farmers involved in agricultural cooperatives to continue operating under new statutes, leading to the mass adoption of joint-stock company (SA) or limited liability company (SARL) statutes.

In 1992, a new Agricultural Property Agency (APA) was created under the supervision of the National Treasury, to oversee the restructuring and privatization of PGRs (accounting for 3.7 million ha) and the state-owned estates of the National Land Fund (totalling 0.6 million ha). Initially, the agency focused on leasing these lands, but progressively began selling them to the private sector, at an average rate of 144,000 ha per year starting from 1994.

The decollectivization process was accompanied by the creation of two other institutions under the authority of the Ministry of Agriculture, modelled on the

agricultural agencies of EU countries. The Agricultural Markets Agency (AMA) is a regulatory body, guaranteeing minimum prices in key production sectors (milk, wheat, potatoes, tobacco, etc.). The Agency for Restructuring and Modernization of Agriculture (ARMA) sets up aid funds for agricultural businesses as well as other actors of rural development (local authorities, service companies, training centers). Following Poland's application to join the EU in 1994, these agencies played a key role in the country's pre-integration processes.

Despite these institutional reforms, farming communities across the country faced a number of challenges: diminishing agricultural production and income, rising interest rates, unemployment, and increasing polarisation in the size of holdings. In the private sector, which was initially dominated by smallholder farms with very few large companies, the proportion of holdings of 2-5 ha decreased by 25% between 1990 and 2000, to the benefit of micro-farms (+15%) and holdings larger than 15 ha (+36%). Large farms in the Western Crescent, held by *kulaks* who had escaped Communist stigmatization, or taken over by former PGR leaders, largely benefited from the liberalization of the land market to expand and specialize. In the fragmented South, dominated by small family plots, farmers relied on income diversification to cope with the effects of this new competition.

The leasing of formerly collectivised land by the APA did not immediately facilitate land access for smallholder farms: short-term leases, with no right of pre-emption for the lessee in the event of land sale, did not inspire confidence among smallholders. Reforms in the early 2000s addressed these shortcomings by introducing long-term leases (10 years, with renewal for up to 30 years) and pre-emptive rights in the event of land sale.

The government viewed Poland's integration into the EU CAP as a foremost priority for economic recovery. Between 1998 and 2002, a comprehensive strategy was established to meet EU standards, including an early retirement scheme to encourage the takeover and expansion of farms, as well as preferential credits for land purchases to improve the land structure. These efforts were financially supported by EU pre-accession funds (through the SAPARD scheme), amounting to over 170 million

euros per year between 2000 and 2006, 17% of which was directly invested in farm modernization and restructuring through ARMA.

However, these investments mainly reinforced the polarising trends of the 1990s, benefiting large farms that were already integrated in commercial networks and better equipped to navigate the complex procedures for accessing subsidies. These large structures quickly conformed to European standards, unlike small farms that struggled to invest and modernize. This result is indicative of the political priorities that continued following integration into the CAP: land consolidation, accompanied by a reduction of the total number of farms and the agricultural workforce.

e. Polish agriculture and the CAP (2004 - 2016)

Poland officially became an EU member state on May 1, 2004. The country's economic recovery since accession is often described as a "miracle", experiencing unprecedented economic growth, drastic reductions in unemployment rates, and an explosion of its export value. This success has partly benefited farmers as a whole, notably through the introduction of CAP subsidies which greatly increased rural incomes. However, the land polarization of the 1990s continued throughout the 2000s, with the erosion of micro-farms and intermediate-sized structures, accompanied by a sharp increase in the surface area covered by large farms of over 100 ha. A moratorium negotiated with the EU allows the permit system for foreign buyers to continue until 2016, but a number of flaws and loopholes have led to increasing land concentration within the Western Crescent.

Poland stood as a net beneficiary of the EU's budget expenditure following accession, as CAP payments replaced the pre-accession aids. As in other acceding Central and Eastern European countries, direct aid for farmers (accounting to 1.2 billion euros over 2004-2006) was progressively ratcheted up through a "top-up" scheme to gradually reduce distortions between old and new member states. In 2006, the direct

payments amounted to 100 euros per ha in Poland, against 350 euros per ha in the established EU 15. This gap would reduce year after year, before closing completely in 2013. Indirect CAP aid to Poland (amounting to 2.5 billion euros for 2004-2006) was also used to support early retirement, the establishment of new farmers, and farm modernization.

These aids had varying effects on the land structure. Micro-farms of less than 1 ha are ineligible for direct aid, and their number has therefore collapsed since EU accession. Holdings of 1-2 ha, hardly more economically viable before the CAP, were able to maintain their numbers thanks to these payments. This income support has encouraged many farmers to maintain plot sizes just larger than one hectare, leading to a proliferation of short-term leases where CAP aids substitute rent payments. Early retirement measures, on the other hand, seem to have encouraged the departure of the smallest landowners, although these informal leases make it difficult to establish the extent of this policy outcome. Lastly, the arrival of CAP payments led to a sharp increase in land prices: +80% on the land market, and +60% in rental prices between 2003 and 2006. The price of agricultural land in 2015 was on average six times higher than in 2004.²

Between 2002 and 2012, the APA continued to sell off its public land: its share of UAA decreased from 13.9% to 8.5%, to the benefit of individual farms (70.7% to 73.1%), commercial farms (1.5% to 2.7%) and plots owned by religious institutions (0.5% to 0.6%). By 2014, 70% of the original APA area had been transferred. While this means that land leased through the APA became increasingly scarce, land rentals in the private land market increased dramatically, mainly as older smallholder landowners leased to larger farms, especially in the west of the country. EU accession also led to a more dynamic land market, with an increase in the number of sales. The very small average size of plots on the market (2.5 ha) reflects the efforts to consolidate micro-holdings in order to exceed the one-hectare threshold for direct CAP payments.³

² Stacherzak, Agnieszka, Maria Heldak, Ladislav Hájek, and Katarzyna Przybyła. "State Interventionism in Agricultural Land Turnover in Poland." *Sustainability* 11, no. 6 (January 1, 2019): 1534. <https://doi.org/10.3390/su11061534>.

³ Churski, Paweł, and Tomasz Kaczmarek. "Three Decades of Polish Socio-Economic Transformations. Geographical Perspectives." *Rozwój Regionalny i Polityka Regionalna*, no. 62 (December 29, 2022): 443–44. <https://doi.org/10.14746/rrpr.2022.61.24>.

These trends of land concentration and price increases were nevertheless mitigated by a moratorium on the purchase of agricultural land by non-Polish entities. During the accession negotiations, Poland was able to obtain a temporary derogation from the TFEU's principle of non-discrimination between 2004 and 2016, specifically for the sale of agricultural land to non-Polish nationals. During this period, investors from other EU countries remained subjected to the authorization system first established in 1920 law. The Ministry of the Interior granted an average of 220 permits per year to foreign investors, mainly hailing from Germany, Denmark and the Netherlands.⁴

However, this system did not apply to Polish companies with foreign shareholders, who maintained their "Polish" status even when non-Polish EU investors held a majority of the companies' shares. The Court of Auditors revealed in 2014 that, through this mechanism, the actual surface area purchased by foreign investors was 3 to 4 times greater than the figures declared by the Ministry (6,150 versus 1,900 ha over the 2011-2012 period). The Court also condemned shortcomings in the action taken by the Ministry of Agriculture, asking it to set clear criteria for excluding certain buyers from APA auctions in order to prevent land concentration.⁵

These auctions, as well as the limited bids provided for under the APA, were regularly compromised by a strategy of "substitute buyers", according to the farmer union Rural Solidarity. This involved foreign companies hiring Polish farmers, usually former tenants of the land for sale or owners of neighbouring plots, which allowed them to qualify to take part in limited APA auctions. These farmers easily outcompeted rival buyers thanks to the financial backing of these companies, and upon winning the auction, immediately transferred the purchased land to the companies.⁶

The result of these loopholes was a strong foreign takeover of the land ceded by the APA, especially in the Western Crescent, where a large amount of land was already

⁴ Ibid (2)

⁵ Supreme Audit Office. "How Foreigners Buy Agricultural Properties in Poland." Najwyższa Izba Kontroli., 2016.
<https://www.nik.gov.pl/en/news/how-foreigners-buy-agricultural-properties-in-poland.html>.

⁶ Lopata, Jadwiga. "Land Issues and Land Struggles in Poland." Transnational Institute, 2013.
https://www.tni.org/files/download/13._poland.pdf.

being leased by foreign companies. In the province of Western Pomerania, in 2012, informal statistics from Rural Solidarity estimated that almost half the land was under the control of foreign companies, 18 times higher than the figure declared by the APA.⁷

A large protest movement emerged in response to these patterns of land grabbing, denouncing their effects on rural unemployment, unaffordable land prices and the intensification of pesticide use. Mobilizations led to a revision of the conditions of sale of the 2013 APA: in particular, the buyer's obligation to cultivate the land purchased for at least 10 years. This outcome, however, was seen as insufficient due to a lack of complementary measures and concessions on the issue of genetic modified organisms (GMOs). Protests thus continued, and anger among rural communities intensified in 2015 ahead of the end of the moratorium on sales to foreigners. The demonstrators, already very critical of the EU's agricultural policies, considered that the end of this protectionist measure would constitute the final step towards the disintegration of the family farm model. This protest movement targeting the Liberal government partly fueled the victory of the nationalist-populist Law and Justice party the same year.⁸

⁷ Ibid (5)

⁸ LVVN Attaché Network. "Changes Legislation Regarding Purchase of Agricultural Land in Poland." Agroberichtenbuitenland.nl, 2020. <https://www.agroberichtenbuitenland.nl/landeninformatie/polen/achtergrond/landbouwgrond/changes-regarding-lease-of-agricultural-land-in-poland>.

f. Reforms following the integration of land into the common market (2016 - 2025)

The end of the moratorium on non-discrimination rules marked the definitive end of the transition periods since the fall of the communist regime. It has prompted the government to adopt urgent measures to protect the land market through regulatory and institutional reforms, albeit with a more long-term aim of coexistence with European rules and regulations.

The moratorium ended on May 1, 2016, against a backdrop of constitutional crisis following the victory of the nationalist-populist Law and Justice party the previous year. The new government reintroduced the law planned by the outgoing coalition to protect the land market from speculation, by tightening protectionist measures in favor of the family model and in defiance of EU policy, without infringing the fundamental principle of non-discrimination. This resulted in the **Law of April 14, 2016 suspending the sale of treasury real estate from the Agricultural Property Agency and amending certain other laws**, which came into force the day before the end of the moratorium period. This law introduced:

- the suspension of sales of publicly-owned plots (under management of the APA) larger than 2 ha, for 5 years (until 2021);
- restrictions on the purchase of plots larger than 0.3 ha: notably the requirement that the purchaser be an individual farmer, active in the parcel's municipality for 5 years, and not owning more than 300 ha;
- pre-emption rights for the APA, under certain conditions, allowing the possibility for greater state intervention in the land market;
- exemptions from these rules for the Church and other religious denominations;

- maintenance of the 1920 permit system for non-EU nationals.⁹

The following year, the Polish parliament also reorganized the institutional structure of state ownership of agricultural land, abolishing the APA and AMA and replacing them with the **National Center for Agricultural Support (KOWR)**. This new organization took over all the land held by the APA, as well as the rights and responsibilities relating to its management, and new missions for rural development and the regulation of agricultural markets. Nevertheless, it differs profoundly from its predecessor in several respects:

- **A new mandate:** while the APA was designed to facilitate privatization, the KOWR' mission has shifted to maintaining public land and direct state interventionism in land markets;
- **Strong institutional centralization:** the KOWR is under the direct supervision of the Ministry of Agriculture;
- **A strong executive role:** any exemption from the rules set out in the 2016 law (sale of public plots of land over 2 ha, purchase by commercial bodies...) is conferred by the Director of the KOWR.¹⁰

The new regulatory system was strongly criticized by business representatives and some farmers, who denounced its intense bureaucracy, longer waiting times for land sale authorizations and reduced decision-making capacity of local authorities. Some of these measures indeed complicated administrative procedures for small landowners, while land concentration continues to advance in certain regions.¹¹ An

⁹ LVVN Attaché Network. "Changes Legislation Regarding Purchase of Agricultural Land in Poland." *Agroberichtenbuitenland.nl*, 2020. <https://www.agroberichtenbuitenland.nl/landeninformatie/polen/achtergrond/landbouwgrond/changes-regarding-lease-of-agricultural-land-in-poland>.

¹⁰ Kryszk, Hubert, Krystyna Kurowska, and Renata Marks-Bielska. "Legal and Socio-Economic Conditions Underlying the Shaping of the Agricultural System in Poland." *Sustainability* 14, no. 20 (October 14, 2022): 13174. <https://doi.org/10.3390/su142013174>.

¹¹ Wetzels, Hans. "The Great Polish Land Grab." *Arc2020*, 2018. <https://www.arc2020.eu/the-great-polish-land-grab-part-1/>.

amendment to the law in 2019 eases restrictions on purchases, notably by raising the minimum surface area to which they apply from 0.3 to 1 ha.¹²

With the suspension of the sale of public land, the KOWR maintains a stock of 1.3 million hectares, 1 million of which is leased, mainly to individual farmers. This shift towards leasing has promoted state visibility on the use and distribution of land, and has increased the share of leased land in the total UUA to approximately 17.5% on the period 2017-2021¹³. Renting land from the KOWR tends to be cheaper (with less price volatility), which is particularly beneficial for small- and medium-sized farms. Tenants also benefit from pre-emption rights to purchase the leased land in the event of it being put up for sale. However, the suspension on the KOWR's sales has been renewed for a period of 5 years, ending in 2026.¹⁴

The strict conditions imposed on buyers appear to have temporarily curbed the explosion in land prices, with a rate of increase of 5.5% per year over the 2017-2021 period, compared with an average of 10% between 2014 and 2016, although this inflation is once again accelerating since 2022. Rental prices, which were previously relatively stable, have risen in response to the purchase limitations.¹⁵

Lastly, leased land is becoming increasingly common among individual farms, rising from 15 to 20% of the national UAA between 2011 and 2020. This increase of the share of leased UAA is particularly strong among small to mid-sized farms (5-30 ha). Data reveals that between 2011 and 2020, the share of indefinite leases more than tripled to around 19%, while that of 1-year leases has declined from 38 to 9%. This is the result of a state policy shift towards promoting long-term leases, both directly through KOWR leases and the legal reforms intended to create a more stable private lease

¹² Karwat-Woźniak, Bożena, Agnieszka Wrzochalska, and Sylwia Łaba. "Legal Conditions in Agricultural Land Trade in Poland." *Bulgarian Journal of Agricultural Science* 29, no. 1 (2023).

¹³ Augustyńska, Irena, and Joanna Pawłowska-Tyszko. "Factors for Development of Small Farms in Selected European Union Countries." *Sustainability* 17, no. 7 (March 31, 2025): 3100–3100. <https://doi.org/10.3390/su17073100>.

¹⁴ Fernsby, Christian. "Poland Extends Ban on the Sale of State-Owned Agricultural Land." *POST*, March 12, 2021.

¹⁵ Wasilewski, Adam, Marcin Gospodarowicz, and Anna Wasilewska. "Agricultural Land Price Dynamics in Europe: Convergence, Divergence, and Policy Impacts across EU Member States." *Sustainability* 16, no. 24 (December 14, 2024): 10982–82. <https://doi.org/10.3390/su162410982>.

market. More than a third of all leases are concluded for a period of 6-10 years, and another quarter for 2-5 years. We can therefore observe the recent growth of a more stable lease market among individual farmers, characterized by neighbourly farm restructuring and the declining relative involvement of both public actors and private companies in this market.¹⁶

The figures below illustrate the regional disparities within the structure and dynamics of agricultural land since 2020: both on the spatial scale of the 4 zones identified previously, and on the level of the voivodeship (highest-level administrative division in Poland, equivalent to EU NUTS2 region). Consistent with the historical development of these zones, we observe a strong South-East/North-West gradient in the average size of holdings, ranging from approximately 5 ha/holding in the southernmost voivodeships to 30 ha/holding in parts of the Western Crescent (such as Pomerania). Looking more specifically at the distribution of agricultural land per holding size category, we can see that the South is dominated by holdings of 2-5 ha (accounting for over 30% of the UUA), whereas over 40% of the Western Crescent's UUA is concentrated in holdings over 100 ha.

This land concentration is also affecting the highly competitive Central regions, due to their intermediate proximity to large cities: 50% UUA is equally distributed between large (>100 ha) and mid-sized (20-50 ha) holdings. The largest Eastern zone appears to be the least polarised, with a balanced distribution of small, mid-sized and large holdings. However, these statistics also obfuscate a significant North-South gradient in holding size within the zone, similarly to the rest of the country.

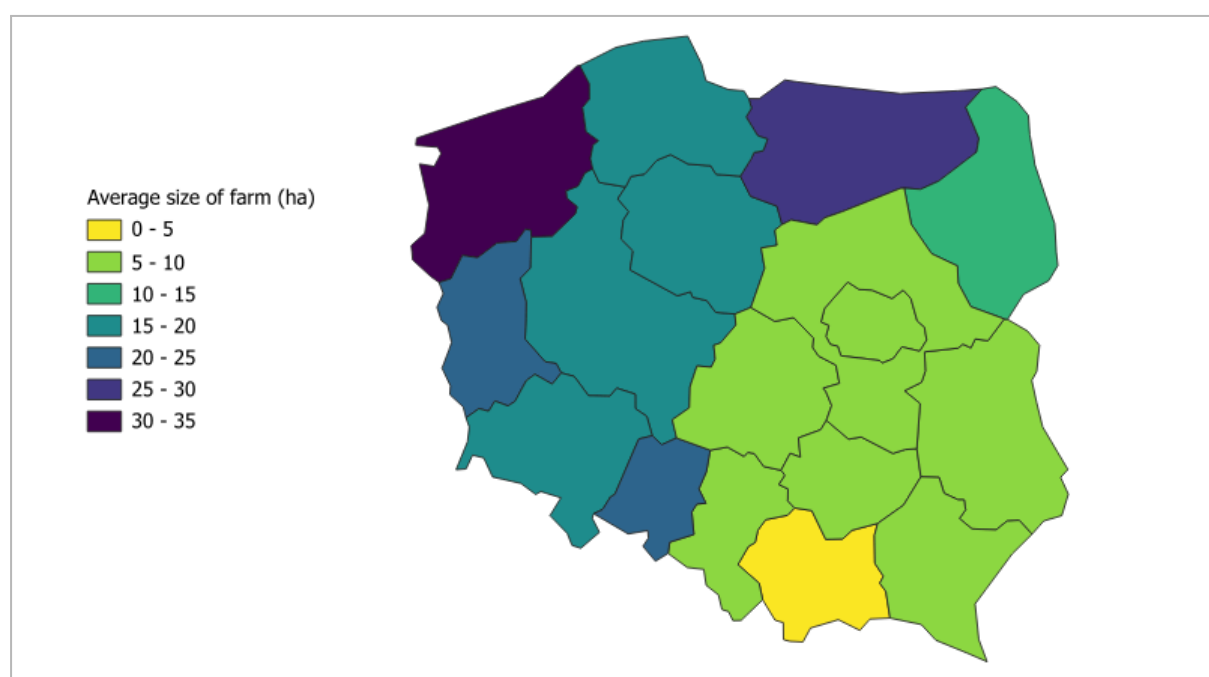


Fig. 2: Average holding size by NUTS2 region (Eurostat, 2020)

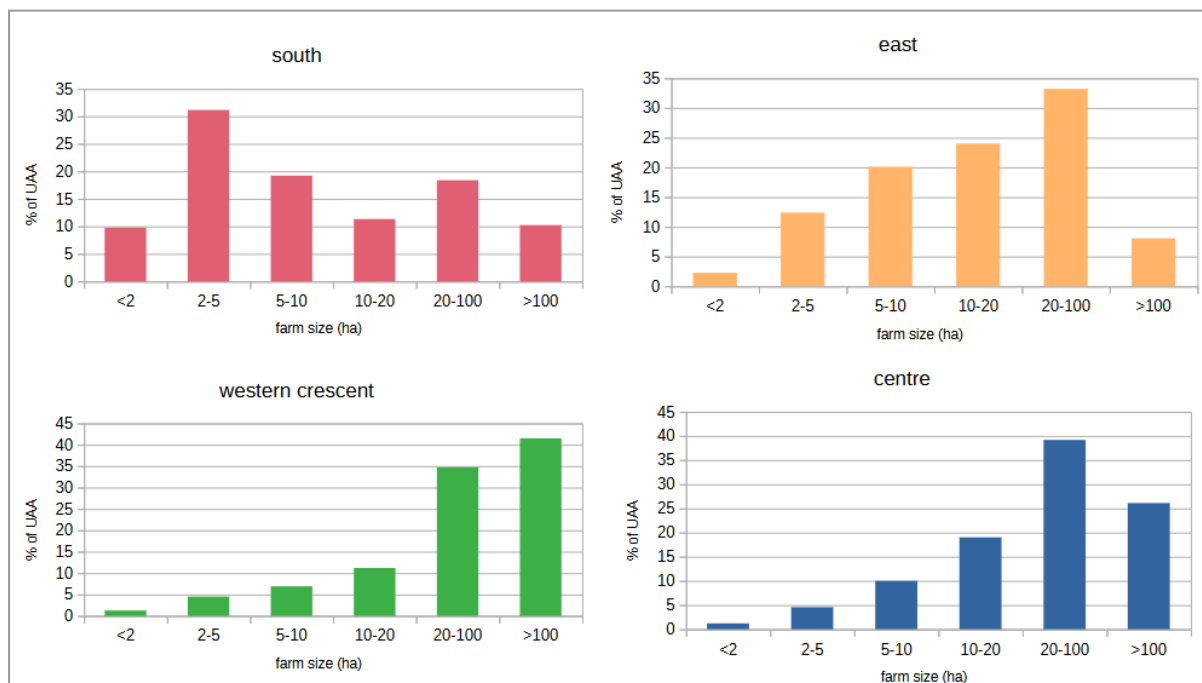


Fig. 3: Distribution of the UUA by holding size category (Statistics Poland, 2020)

The Agricultural Census, conducted every 10 years, counted 1,506,600 holdings in 2010 versus 1,317,700 in 2020, giving a decrease of 12.5%, similarly to France. This trend is less pronounced than on the EU level (-24% over the same period) or in other Eastern European member states, such as Bulgaria (-64%). The fragmented South of Poland was most affected by holding concentration (-18%), while the Center remained marginally more stable (-9%).

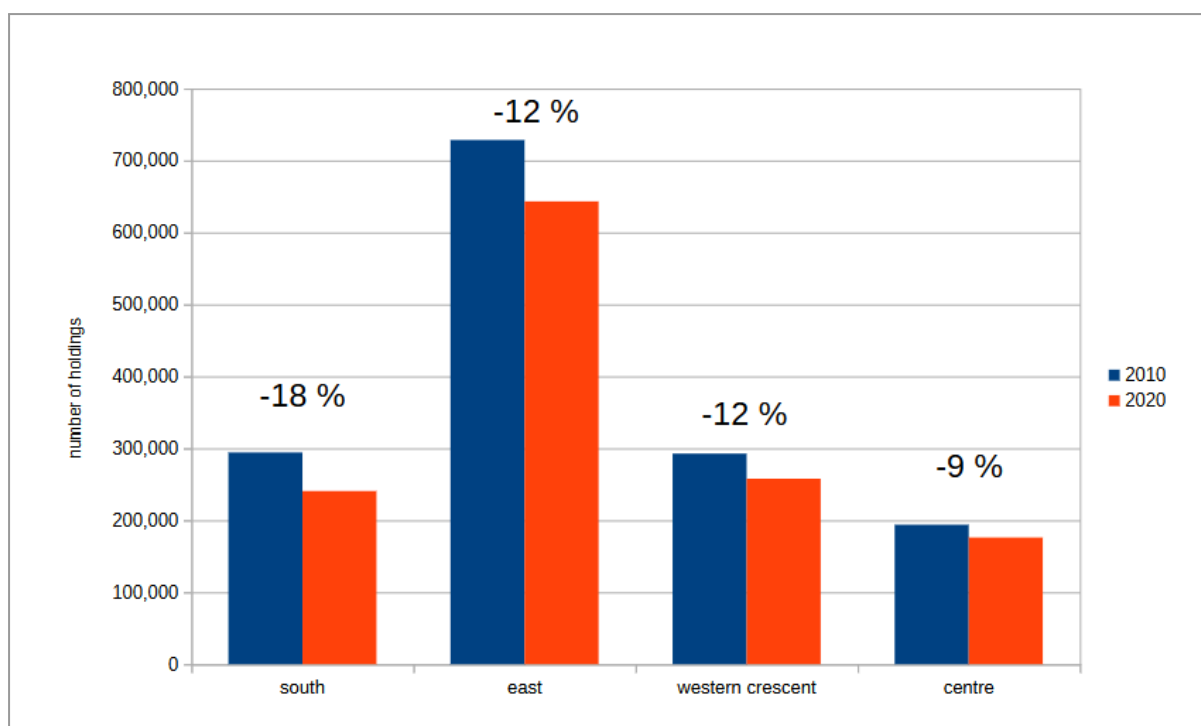


Fig 4: number of holdings per zone in 2010 and 2020 (Statistics Poland)

We can also notice sharp regional contrasts in arable land prices. In 2023, the national average was 13,906 euros/ha, above the EU-wide average (11,791) and comparable to those of Greece and Czechia. The highly competitive Central region, and particularly the Greater Poland voivodeship, features higher prices (around 17,000 euros/ha) than the rest of the country (between 10,000 and 12,000). The most polarised voivodeships, on the other hand, both in the concentrated West and fragmented South, present the lowest land prices of the country (under 10,000 euros/ha). Prices in the Western Crescent stabilised somewhat during the 2016 reform process, whereas prices in the South and East have increased most sharply since the reform (by 63 and 58%, respectively).

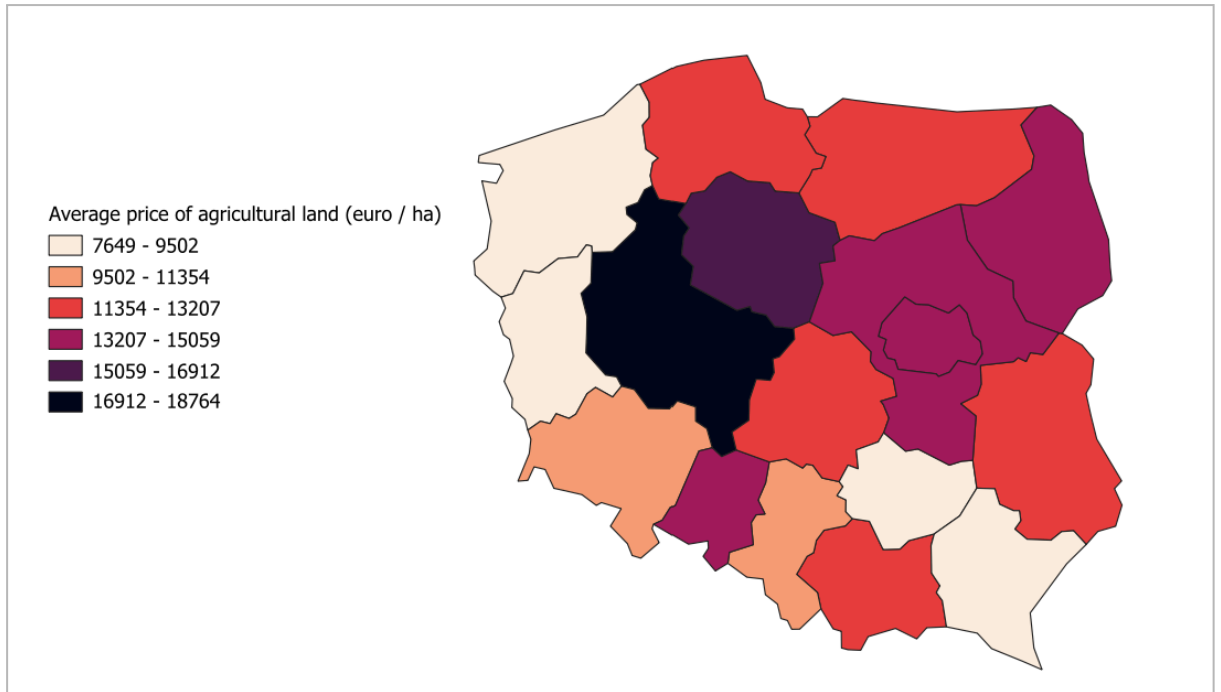


Fig 5: average price of land per NUTS2 region (Eurostat, 2023)

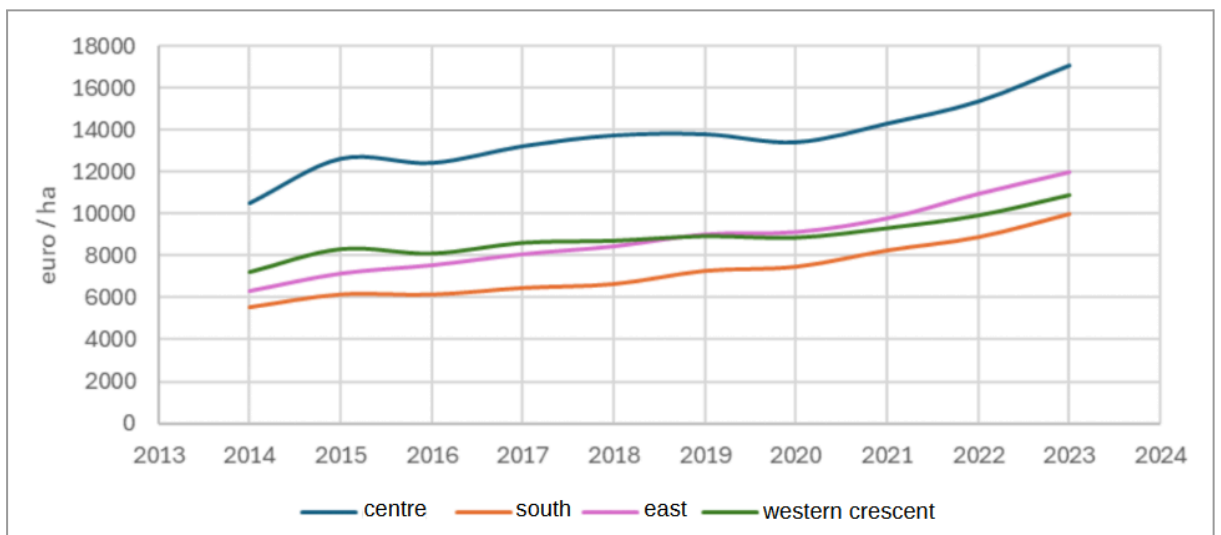


Fig 6: land price evolution 2014-2023 (Eurostat)

Zone	Average holding size (ha)	Dominant size classes (ha)	Average land price (euros/ha)	Land price increase 2016-2023 (%)
South	4.7	2-5	10,018	63
East	9.3	10-20 and 20-50	11,952	58
Western Crescent	19.6	>100	10,914	34
Centre	16.1	20-50 and >100	17,068	37

Fig 7: summary main indicators by geographical zone (Eurostat, 2023)

Chart 50. Holders of natural person's agricultural holdings (private farms) employed on their own agricultural holdings by sex and age in 2023

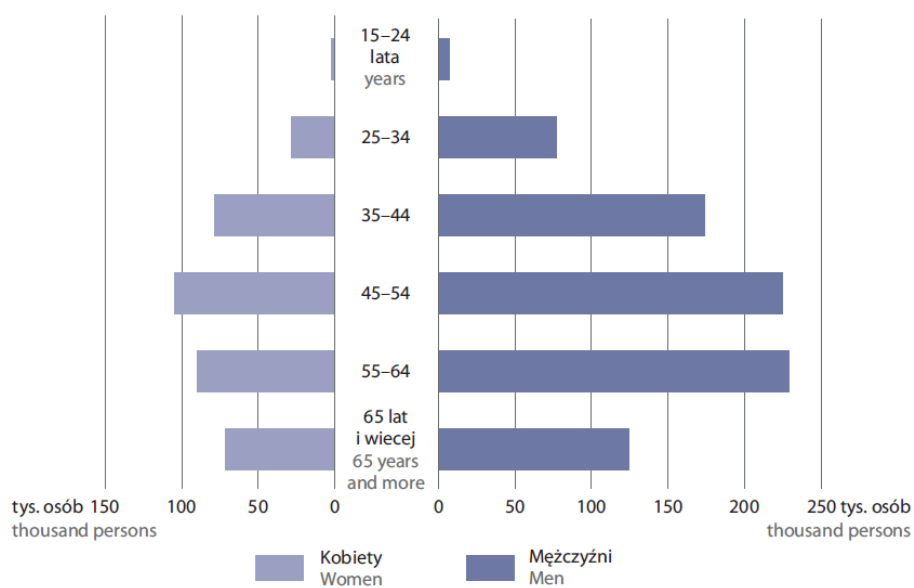


Fig 8: sex and age distribution of farmer land owners (Statistics Poland, 2023)

II. Current legal framework

a. General land tenure system

(Agricultural) property in Poland

In the Polish constitution, the right to private property is fundamental but not absolute, and may be overridden in the general public interest. The Civil Code provides a precise definition of agricultural land, while the Act on the Structuring of the Agricultural System (UKUR) states that national agriculture is based on the family farming model.

Article 21 of the Constitution protects the right of ownership and the right of inheritance, stating that 'expropriation may only be authorised for purposes of public utility and in return for fair compensation'. In the case of real estate, this public utility is defined in article 6 of the Real Estate Management Act (1997): 'The management of real estate must guarantee its appropriate use, development, protection and preservation of the environment, in accordance with the requirements of the public interest and the sustainable development of the economy'. This article also includes 'the prevention of speculation in immovable property' as a principle guiding its management.

The Constitutional Court has ruled on several occasions on the balance between the fundamental right to property and the public interest, particularly concerning the acquisition of agricultural land by foreigners. In its judgement of 1 December 1999 (K 21/99), the Court stated that the measures implemented by the State in this area were in the public interest.

Agricultural holdings and land ownership

An agricultural holding is based on tangible and intangible elements; and can be owned by natural or legal persons. The primacy of “family farming” is reflected by a restrictive definition of the “individual farmer” status as defined in the 2003 UKUR law. Other possible forms include corporate (SARL or SA) and cooperative ownership. The latter has been reformed and streamlined in 2018, updating the socialist model from 1982, but this has also created issues of legal fragmentation given the variety of cooperative structures.

Article 55 of the Civil Code (C.C) defines a farm holding as agricultural land (and its associated components - buildings, equipment, livestock, etc.) constituting or capable of constituting an organised economic unit with the rights necessary for farming. This definition is therefore based on tangible and intangible aspects, but the primacy of the existence of agricultural land as a prerequisite for the other conditions was confirmed by a Supreme Court decision in 2010. As in the case of agricultural land, the UKUR law proposes a two-stage definition: the farm must first meet the conditions of the C.C., and then maintain a minimum agricultural area of 1 ha in order to qualify for farm status. The family farm, recognised in the constitution, represents a special case where the farm is managed by an individual farmer and does not exceed a surface area of 300 ha (this limit also applies to co-ownerships).

The status of individual farmer is defined in article 6 of the UKUR law as:

- a natural person who is the owner, perpetual usufructuary or lessee of agricultural land,
- holds no more than 300 ha of agricultural land,
- has professional qualifications in agriculture,
- and has been resident for at least 5 years in a rural area (municipality with a population of less than 5,000).

This rather restrictive definition of the status, being a the pre-requisite for the purchase of agricultural land under the general regime (we will see the exceptions in the next section), was largely designed to protect family farms in the context of market liberalisation and EU integration. However, the requirements for rural domiciliation (explicit) and prior leasing (implicit) for the purchase of land now represent a major obstacle to the establishment of “back to landers” (individuals from a non-agricultural background wishing to establish themselves as farmers).

Since the 1990s, farms can also be managed by commercial companies in the form of Limited Liability Companies (SARLs) and Joint Stock Companies (SAs). These two forms of corporate structure are governed by the Commercial Companies Code.

The agricultural production cooperative is a model inherited from the socialist period which has since been modernised, but suffers from legal fragmentation. The new Agricultural Cooperatives Act 2018 now establishes a special private law regime inspired by those of Western Europe that were developed in fully fledged market economies. An agricultural cooperative is defined as a ‘voluntary association of natural or legal persons [...] with variable staff and a variable share capital, which carries out joint economic activities in the interests of its members’, including:

1) planning the production of products or groups of products by farmers and adapting them to market conditions, with particular regard to its quantity and quality;

2) concentration of supply and organizing the sale of products or groups of products produced by farmers;

3) concentration of demand and organising the acquisition of the necessary means for farmers to produce products or groups of products ¹⁷.

Members may be farmers or persons ‘engaged in the storage, warehousing, sorting, packaging or processing of agricultural products’. The cooperative must have at least 10 members who are farmers, and cannot refuse membership to any entity that meets the entry fee (a specific amount or an amount proportional to the cooperative's

¹⁷ (Article 6 paragraph 1 FCA11).

share fund). It benefits from a number of tax exemptions and local taxes (on farm buildings, for example) during its first years of operation. This form of economic cooperation is managed by bodies such as a general meeting, a supervisory board and a board of directors, which lay down their own articles of association.

For cooperative structures that do not match this definition, such as the traditional agricultural production cooperatives developed under socialism, the 1982 Cooperatives Act applies: "The subject of the agricultural cooperative's production activity is running a joint agricultural holding and activities for individual farms of members. The cooperative may also conduct other business activities. The subject of activity of other cooperatives involved in agricultural production is running a joint agricultural holding."¹⁸

Nonetheless, it is important to note that the share of collectively owned land was marginal across the entire country even during the Communist period, and that this form of ownership also experienced a major decline of over 50% over the course of the market transition. In 2002, agricultural production cooperatives accounted for only 1.3% of land ownership, and only 0.2% in the case of land cooperatives. There is insufficient data to evaluate the impact of the 2018 law on this situation.

Regulation of leases

The regulation of agricultural land leases is complicated by the absence of a specific legal status, frequent changes resulting from more general agricultural reforms, and the prevalence of oral and informal leases on the private market. Contracted leasing on private land, while flexible, does not offer major protection for lessees, and many of the basic protectionary measures can be waived in the contracts themselves. Leases on KOWR public land, on the other hand, are better regulated in order to encourage the expansion, consolidation and development of family farms.

¹⁸ (Articles 138 and 178 of the Cooperative Law)

In general, leases are regulated by C.C., with special provisions for agricultural land (articles 693–709). In general, contracted leaseholders benefit from minimal protection compared to Western European countries such as France:

- leases can be fixed-term or indefinite: there is no minimum lease duration, with a maximum of 30 years for fixed-term leases;
- for indefinite leases, the statutory notice period for termination is 6 months from the end of the lease year (CC Art 704);
- for fixed-term leases, termination must have *just cause*, **unless the contract allows for it**;
- rent reduction can be demanded in case of *force majeure*, including extreme climatic events: the burden of proof for the circumstances (unforeseeable and exceptional) and damage (significant loss of yield) lies on the lessee. This clause can also be **excluded from the contract**
- no direct cap on rent price increases

As we can see, these C.C. provisions provide for very little protection of lessees compared to the French *bail rural*. The possibility of contractual exclusion of protectionary clauses (notably against premature termination) also heavily favours landowners with financial resources for legal counsel, at the expense of small-scale lessees. These factors help to explain the low level of trust in contractual leasing and the prevalence of informal leases.

Nonetheless, the jurisprudence has enabled some breakthroughs in securing better protection for lessees, through rulings on:

- **a narrow interpretation of *just cause*** for premature termination of fixed-term leases, excluding vague dissatisfaction and personal conflict (SN Judgment of 6 November 2008, IV CSK 228/08), or temporary delays in payment due to unforeseen circumstances (Court of Appeals, Kraków, I ACa 1221/18);
- **the invalidity of unilateral rent increases** unless permitted by the contract or justified under the general principles of **rebus sic stantibus** (doctrine of hardship) (SN Judgment of 21 May 2010, V CSK 424/09);

- **the qualifying of extreme weather conditions as *force majeure*** justifying a proportionate rent reduction or rent waiver (SN Judgment of 12 March 2003, II CKN 1370/00), even if no absolute crop loss occurred as long as there is a significant impact on the economic viability of the lessee's production (SN Judgment of 28 November 2003, III CZP 86/03).

Lastly, the 2003 UKUR also established pre-emption rights for tenants after 3 years of renting in the case of the land sale. Land leasing from the KOWR is subject to its additional internal regulations and oversight measures. Despite the shortcomings of the private regulatory framework, land leasing (including through written agreements) is becoming more common in Poland, particularly among individual farmers.

b. Land transfer

General rules for sale, exchange and donation

This section covers rules for the sale and purchase of agricultural land, but the same rules broadly apply to turnover through exchange and donation. This regulatory framework is intended to prioritise the purchasing of land by individual farmers, by making transfers to other buyers dependent on the consent of the KOWR. Monitoring and enforcement has been made more efficient through the creation of a centralized online portal for sale intention announcements and responses, while exemptions to these rules still exist for various categories of buyers.

As discussed previously, the 2003 Act, and its amendments in 2016 and 2019, establishes that agricultural land plots larger than 1 ha can only be purchased by an individual farmer as defined in article 6, who has lived for more than 5 years in the municipality (gmina) in which the plot is located. The purchase also comes with a 5-year obligation to personally farm the land without transferring or leasing for this period. A farmer planning to sell agricultural land to a buyer who does not fit these conditions must apply to the director general of KOWR for issuance of an

administrative decision consenting to acquisition of the land, which is dependent on four conditions.¹⁹

First, the seller must demonstrate that there is no possibility of the land acquisition by an individual farmer, a condition that since 2020 has been linked to a new centralised IT system (erolnik.gov.pl) to enable the free posting of announcements of the intention to sell agricultural real estate, and responses from individual farmers. The deadline for responding to such an announcement may not be shorter than 30 days, and false declarations of a respondent's individual farmer status are subject to criminal liability. The inability to sell to an individual farmer is demonstrated if:

- no farmer has responded to the advertisement on the online portal or to the KOWR local office of the property location, and the price of the property does not exceed by 50% the average selling price of arable land per hectare in private trade in the given province (unless the seller can provide a valuation report testifying to this unusually high price);
- or if the response proposed a price of purchase that was more than 5% lower than the advertised price;
- or if the response was submitted after the deadline specified in the announcement.

Second, the application for consent must be made to the KOWR within six months of the end of the deadline specified in the announcement on the online portal.

Third, to provide consent to sell the property, the KOWR must determine that the acquisition must not result in excessive concentration of agricultural holdings.

Fourth, as of 2023, the seller must ensure that the selling price will not be below 95% of the advertised price.

¹⁹ Moreu-Żak, Sylwia . "KOWR Consent to Acquire Agricultural Land: A New Approach." | In Principle, 2019. <https://codozasady.pl/en/p/kowr-consent-to-acquire-agricultural-land-a-new-approach>.

If consent is granted, it is valid for one year from the date of the final decision.²⁰ In case of refusal, the seller can demand the KOWR to buy the land, that must determine the price of the land based on market value: if the seller disagrees, they can waive the sale of the land or request that a district court determines the corresponding price.²¹

Article 2a of the 2003 Act lists the other types of buyers for which the acquisition does not require consent from the KOWR, besides for individual farmers. In summary, these are:

- **persons close to the seller** (direct and indirect family members, including in-laws and step-family);
- **public actors**, including local government units, the State Treasury and trading companies of which it is the sole shareholder,
- **agricultural production cooperatives**, and their land-contributing members in the event of intra-cooperative sales;
- legal persons representing **religious institutions**;
- **national parks** for purposes of nature conservation;
- various private actors within the **energy sector** (operating gas distribution, nuclear power plants or offshore wind generation) and involved with the Central Communication Port (an airport mega-project).

Despite the restrictive appearance of this regulatory framework, evidence suggests that natural persons face no major obstacle to purchasing agricultural land provided they declare an intention to conduct agricultural activities. In 2021, 12,000 applications for consent were filed, of which over half concerned natural person, and of which 93.4% received positive administrative responses from the KOWR.²²

²⁰ National Support Centre for Agriculture. "Seller's Application." Krajowy Ośrodek Wsparcia Rolnictwa, 2025. <https://www.gov.pl/web/kowr/wniosek-zbywcy>.

²¹ Schampera, Konrad. "Sale of Agricultural Land - Three Yeras after the Amendments." Schindhelm.com, 2016. <https://pl.schindhelm.com/en/news-jusful/news/sale-of-agricultural-land-three-yeras-after-the-amendments>.

²² CIJ News iDesk III. "It Is Not Impossible to Purchase Agricultural Property in Poland." Cijeuropa.com, 2022. <https://cijeuropa.com/en/it-is-not-impossible-to-purchase-agricultural-property/post.html>.

Inheritance

Rules for land inheritance broadly differ from those of sale, exchange and donation, both due to its different legal basis in the C.C., and the impact of a 2001 Constitutional Tribunal ruling which found the provisions of agrarian policy to be unconstitutional. This landmark jurisprudence had both immediate effects on inheritance rules, and led to further liberalization in subsequent reforms, most notably in 2023.

Until 2001, articles 1058–1066 of the C.C placed significant restrictions on who could inherit agricultural land (only qualified farmers) and forced concentration into the hands of a single heir, with the goal of preventing fragmentation. However, in 2001 the Constitutional Tribunal ruled that these provisions “unjustifiably interfere with the principle of equality before the law”, notably violating articles 21 and 64 of the Constitution (SK 31/10). This jurisprudence reinstated equal inheritance rights for all heirs (regardless of profession) and restrained state appropriation of agricultural land in the absence of a suitable heir. Amendments made to the C.C in 2003 therefore reverted the inheritance of agricultural land to standard succession rules.

As such, in the absence of a will, intestate rules apply: all heirs receive equal shares of the estate and as such become co-owners (surviving spouses must receive at least $\frac{1}{4}$ of shares). Disagreements on the division of the estate lead to court intervention, which has an obligation to maintain a minimum size and functionality for the divided plots (above 1 ha). As per 2019 and 2023 amendments to UKUR, all transfers among family members are generally exempt from intervention from the KOWR and the 5-year holding and use requirements.

Pre-emption rights

UKUR establishes pre-emption rights designed to limit land speculation and

prioritize active farmers, for renters of more than 3 years, for existing co-owners in co-ownership shares, and for the KOWR in land transfers submitted to its consent and in shares of companies (and their parent companies) that own more than 5 ha of land.

First, the active tenant of an agricultural plot benefits from a pre-emption right if it is put up for sale on the market, provided the tenant has been renting it for at least 3 years, that the lease is in writing, and that the tenant farmer is properly registered. This pre-emption right does not apply to land transfers among family members.

Secondly, co-owners of agricultural property (farming on common land) benefit from pre-emption rights on the sale of a share in co-ownership rights.

Thirdly, the KOWR holds a statutory pre-emption right when it has right of first refusal (when consent is required for the transfer): after notification of a notarial conditional deed, it has 30 days to step in and exercise its pre-emption right, buying the land under the same terms. In practice, however, the KOWR rarely exercises this pre-emptive right: in 2021, it received 42,000 conditional sale contracts, but only intervened in 171 cases.²³ This right does not apply when the buyer is an individual farmer or any of the other categories mentioned in Article 2a.

The KOWR also has pre-emption rights for the purchase of shares in a company that owns more than 5 ha of agricultural land, whether or not this company is engaged in agricultural activities. As of 2023, this pre-emption right also applies to shares of a *parent company* of a landowning entity, further expanding the scope of KOWR's intervention in corporate mergers and acquisitions.²⁴

²³ Ibid 22

²⁴ Woźniak, Grzegorz. "Significant Amendments to the Law on Formation of the Agricultural System in Poland." Wozniaklegal.com, 2023. <https://wozniaklegal.com/en/news-and-insight/385/significant-amendments-to-the-law-on-formation-of-the-agricultural-system-in-poland.html>.

c. Legal tools

Land consolidation

The Act of 26 March 1982 on Land Consolidation and Exchange establishes a legal process designed to improve the spatial structure of agricultural land parcels.

The process can be initiated either voluntarily through a request by a majority of the landowners, or owners of the land of over 50% of the consolidation area, or by administrative authorities in view of infrastructure development. In both cases, the process is coordinated by the district government. Land of equal value (up to 3% value difference) is typically exchanged.

Concerning compensation for altered agricultural holdings, the Act stipulates that land valuation should reflect the value of land and be conducted using standardized methods. The implementation of this valuation, however, has been found to be inconsistent and frequently land under market value, disincentivizing many landowners to engage in consolidation despite highly fragmented structures in some parts of the country. Critics point to the prominent involvement of public bodies in the valuation process, at the expense of registered property appraisors, as one of the causes for this problematic implementation.²⁵

Preferential loans and grants

The Agency for Restructuring and Modernization of Agriculture (ARiMR) has set up two preferential loan programs designed to help individuals farmers pay back loans

²⁵ Dorota Wilkowska-Kotakowska. "Land Valuation Methods in Land Consolidation Proceedings vs. Implementation of the Purpose of Land Consolidation as Specified in the Land Consolidation and Exchange Act of 1982 in Rural Poland." *Studia Iuridica Lublinensia* 32, no. 3 (September 29, 2023): 125–46. <https://doi.org/10.17951/sil.2023.32.3.125-146>.

for farm development: the first concerns existing farmers purchasing land, the second helps new farmers set up their activities.

The first arrangement allows farmers to apply for support from the ARiMR when taking out loans for farmland purchase from cooperating banks: the Agency may subsidize up to 40% of the loan value (and up to 60% in the case of young farmers under the age of 40 and in places with difficult farming conditions), although the amount of support given is decided on a case-by-case basis. In 2019, ARiMR supported 1,637 loans for purchasing farmland.

The second arrangement allows young farmers (under 40) who have never run a farm before to apply to ARiMR when taking out loans for farm setup: the Agency may not subsidize more than 90% of the cost of setting up a farm, and the farmer must prepare a business plan to become economically profitable within 5 years (the contract requires 4 ESU)²⁶. In practice, this means that preferential loans for new young farmers may be subsidized up to 60% by the Agency.

In both cases, the aid must be paid back in full if the farmer ceases their activity or, in any other way, does not fulfill the investment plan on the basis of which the loan was granted. Any subsequent changes to this plan must be consulted on with the loaning bank. According to EU regulation on *de minimis* support, the amount provided to a single farmer cannot exceed 20.000 EUR over three years.

Although these loan programs have been well-received and generally have a positive impact on individual farms, allowing for their setup and expansion, they are also criticised for their contribution to the financialization of agricultural land (by providing money to the loaning banks) and to the prioritisation of the economic profitability of farms over their sustainability.²⁷

²⁶ The European Size Unit (ESU) is used to express the economic size of an agricultural holding or farm. 1 ESU accounts for 1200 euros standard gross margin.

²⁷ Perzyna, Joanna, and Robert Skrzypczyński. "Legal and Policy Arrangements in Poland." Ruralization, 2020.
https://ruralization.eu/wp-content/uploads/2021/02/RURALIZATION_D6.2_Final-v1.0-1.pdf

