

THE HOLDINGS CONCENTRATION AND MERGER OF AGRICULTURAL LANDS

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Abstract: *Farm consolidation process involves increasing the physical size and hence economic them (being more evident in specialized holdings in crop production). In parallel with the increase in farm size is achieved and an increase in the size of parcels of which it is composed, by merging land. The result is a process of concentration of farms, and increase of the economic importance of large farms. The process is naturally closely related to the emergence of new agricultural technologies, more efficient. Development of specialized production, which today dominates the farmers of industrialized countries, requires the removal farms can not invest and expand. It's holdings are below the reproduction, is those where the farmer earn less than they would earn as an employee in an alternative occupation, but still more than he needs for survival, which makes the manager to continue agricultural activity until retirement. With this, he or his heirs will sell the holding, which is purchased by farms practicing a production system performance. This development can take place naturally or can be guided (and hastened or delayed) policies to guide farm structure.*

Key words: *holding, legislation, farmer, land market, agricultural*

INTRODUCTION

In a market economy, efficient use of economic resources such as agricultural land policy presupposes a functional land market. In turn, the efficiency of land markets is measured by their ability to transfer land from less productive users to the most productive. Transaction costs that complicate or prevent such transfers lead to decreased efficiency. Several studies have shown that agricultural land markets in transition countries were characterized by the existence of significant transaction costs, which constitute a constraint for farms intended to increase its size, including those from Romania. [9]

These constraints deriving from asymmetric information costs related to the possession of properties in common (as a result of restitution), the plight of property registration, the high level of commissions and fees directly related to the transfer of ownership. There were also credit constraints and local preferences for agricultural land holding pattern based either on ownership or on lease. Romania's case is part of most of the model based on property specific labour intensive economies.

MATERIALS AND METHODS

In Romania, the application of the land reform of 1991 (with subsequent additions and corrections) produced an equally pronounced fragmentation of agricultural properties and parcels of land within them. The existence of a functional land market was mainly related to the establishment of larger farms capable of achieving productivity allowing a reasonable level of competitiveness of products Romanian farmers, and not need to provide land market through a reduction inequality in the ownership of the land, as is often the case in developing countries. [5, 12]

Land fragmentation theme was addressed both Romanian specialists, from different perspectives: legal, economic, political and social. Some of the recommendations of these works, such as the introduction of active measures to strengthen the farm, like life annuity program, have had some beneficial results, but finding a solution to the problem of

fragmentation rapid effects still remains a challenge for Romanian agriculture modernization.

More recent papers have dealing with Romanian agriculture along with other EU Member States, highlighting the wide variation in prices of agricultural land in the EU, as well as rent levels under the impact of European subsidies and the manner of their allocation different countries. Among the determinants of the value of agricultural land agricultural commodities listed prices, expansion of infrastructure, urban pressures, and land market regulation or duration of lease contracts, the taxes on land owned and land transactions and, not least, the CAP subsidies. [7, 17]

In this context, the role of transitional restrictions that benefit all countries, usually for seven years from the date of accession, is considered rather as undetermined price trends earth after accession, most important proving specific conditions of purchase by individual's local legal and land [9]. The results of qualitative analysis are confirmed by a quantitative analysis showing that it is foreseeable lower prices of agricultural land in the EU with improved technologies and thus increase productivity, decrease could be even 30% if corroborate the effects of this trend with a full liberalization of trade in agricultural products.

The land market in Romania began official operation with the reform of the whole agricultural sector in the second half of the 90s, when the Law no. 54/1998 regarding the juridical circulation of land, and the Chapter of Law no. 18/1991 regarding this matter has been repealed. The data collected during 1998-2014 is now the only official data on the land market in Romania. (10) Accordingly, throughout the 1998-2014 were recorded in the unincorporated area of 618,000 sales contract, plus and 59 thousand acts of donation. The total area sold was around 825,000 ha, larger areas being sold in three counties in west (167 thousand hectares Timiș, Arad, with 72.000 ha and Caraș-Severin, with 27.000 ha) and one from the East (Constanța with 32,000 ha).

Law no. 247/2005 on property and justice reform repealed Law no. 54/1998, replacing it with the provisions of Title X, called the legal circulation of land. In an effort to help address the fragmentation properties of Romania, the law had a provision exempting stamp duty disposals made in order to merge land parcels and, as disposals carried out by persons entitled to the agricultural life annuity as provided the possibility of making such alienation based on drawings that were the basis of property titles (and not cadastral documentation made by authorized persons). [10]

After 2006, registration of agricultural land transactions was made by the National Agency for Cadastre and Land Registration (ANCPI) in each county, as the commissioning of the county of national information system components. Comparing data from the computer system ANCPI with the centralized MARD, one can see that the land market was more active after accession, given that in 2013 the average number of transactions (sale) at a county level was 66 per month, with peaks up to 300 transactions per month, in active markets counties (Timiș, Constanța, Timișoara).

Also, if in 2014 the total number of transactions (buying and selling) was about 33,000, with an area of about 64,000 ha in 2011 (in some counties the data do not cover the full year) the number of transactions was about 118 thousand, and their area of about 206,000 ha, a clear increase compared to the pre-accession period, when all transactions in 1998-2014 totalled approximately 513 000 ha. [11]

Prices unincorporated land (agricultural land with different uses - arable land, pastures, meadows, vineyards, orchards) were over tripled on average in 2014 (from 247 euros / ha in 2005 to 884 euro / ha in 2014), according to MARD for the period 1998-2014. This increase was probably due to the proximity of the moment of accession (negotiations were concluded in December 2004) and expectations related to an increase in prices in the period after seven years from accession. [15]

The increase may also be the result of changes in legislation in 2014 to simplify the procedure of changing the category of land located outside the city (thus becoming constructive land after obtaining the necessary permits); new legislation also facilitated the procedure to change the use of land (for example, agricultural land constructive land).

After 2013, MARD has not collected information on prices of agricultural land, the only source of information since 2008, expert on assessing the value of tangible assets made by local assessors to order the National Union of Notaries Public in Romania. We sought to identify a likely price arable land located in rural areas, which is not influenced by exceptional circumstances (proximity to towns etc.). Comparison of these rates with average prices actually recorded in 2005 shows that agricultural land prices in this period showed a significant increase, especially in the west of the country. [11]

In that section by means head of a foreign farmer farms in Romania which has foreign citizenship, whether he leads his holding is individual farm (unincorporated) or company (legal personality).

RESEARCH RESULTS

By joining a foreigner can own a farm individually organized into the following categories of land: land leased; bought land in their own name (if held simultaneously Romanian citizenship); land purchased on behalf of a family member who was a Roman citizen (wife / husband). This situation occurs when small farms. Upon accession, a foreign national of an EU Member State may own agricultural land that takes up residence in Romania and is a farmer in the Member State. It seems that foreign farmers have not used the right to buy land in these circumstances. [2]

The Law no. 312/2005 on the acquisition of private property rights of foreign nationals and foreign legal persons are taken over some of the existing restrictions in the old Law no. 54/1998 in that restriction also applies to foreign citizens and foreign legal entities, to the extent not contrary to the Treaty of Accession. I mean, citizens and legal entities from EU Member States are given the same rights as Romanian citizens and Romanian legal persons, but in the fullness of seven years from the date of accession. As set out in the Accession Treaty, farmers self (i.e. individuals) in the Member States and establish their residence in Romania that prohibition does not apply, so they can buy agricultural land immediately after accession, but can not change the destination their transition period. They must prove the quality of farmer with documents issued by Member States. Law no. 312/2014 entered into force on the date of seven years from the accession date to the European Union (January 1 2007). However, just as in the past, foreigners who set up a company in Romania could buy land on behalf of that company, as Romanian legal entities, regardless of the origin of capital. [1]

The most common way of organizing a farmer holding a foreigner, both before and after accession, is in the form of a company registered in Romania (Romanian legal person, but with foreign capital) that can acquire and use agricultural land as any other company domestic capital (without restriction, at least after the appearance of the Law no. 54/1998 regarding the juridical circulation of land). According to records of the Ministry of Agriculture and Rural Development, agricultural land owned by foreigners in Romania in 2014 was about 700 thousand hectares, a quarter of the companies belonging to the Italian capital, followed in order by the German capital, Arabic, Hungarian Spanish, Austrian, Danish.

A wide debate on the issue of land use revealed that large differences between the values of agricultural land in EU countries are due to the restructuring of agriculture in recent years, but the problems observed in the new Member States of the European Union are largely the result of differences in approach to land reform. In addition, the acquisition

of land by foreign investors has been severely restricted in these countries after their accession to the EU, transitional regulations were in force in the new Member States (will expire, except Poland and, apparently, Hungary) the acquisition of land by foreigners should be allowed under EU internal market. [6, 3]

But there were no restrictions on use (by lease) of land to foreign investors. The percentage of leased land vary widely and reflect existing farm structures in different countries (Slovakia and the Czech Republic is more than 90% and in Poland, approximately 30%). The participants in the debate, restrictions on agricultural land transactions have a negative influence on development, land property laws having an impact on efficiency. With respect to FDI, it is considered that they have the most positive consequences for the countries receiving them due to the influx of capital and technology, for which we recommend a full liberalization of land markets in the new EU Member States.

CONCLUSIONS

In Romania, concerns about the level and pace of the last years of the acquisition of agricultural land by foreigners, amid the impossibility of extending the transitional restrictions, generated the idea of a land management agencies that can wear out on behalf of the state of pre-emptive right to purchase land and are therefore able to correct any imbalances in agricultural structures, generated by the operation of the land market completely free.

It should be noted that Law no. 18/1991 provides for a right of first refusal to the alienation of land outside town, which was for - in order - then the co-owners and neighbours, as that is exercised through an agency (Agency for Rural Development and Planning) to be notified of the intention of the owner sell the land. Then follow the agency to consult holders' pre-emption right and if not acted within 30 days, the land could be sold freely. Rural Planning and Development Agency, however, has not been established. [14]

After adoption of Law 54/1998 regarding the juridical circulation of land, respecting the right of pre-emption dilemma, which was maintained as having as co-owners holding on, neighbours and tenants (without a predetermined order), was solved by Appointed by City Council agencies in whose land was located. [16] The seller must register the offer, and if pre-emption right was exercised by several holders have the right to elect one of the bidders or to refuse all if not convenient price and sell to someone else. The right of first refusal was reduced rather an act of advertising the offer. The provisions of Title X of Law no. 247/2005 right of pre-emption has been removed completely.

The French experience of the last decades, which continues today, shows that the existence of a right of first refusal to purchase state land is required when there, is a type SAFER agency, whose task implementation of policy guidance farm structures. The reasons for introducing a pre-emptive are as follows: help installing, reinstalling or maintaining farmers; lead to increased farm size; keep the balance between different types of farms fight against land speculation; showcase and protect forests; highlight the scenery and protect the environment. [8, 9]

The right of pre-emption of state (SAFER) does not apply to heirs and relatives, evicted farmers; the farmers purchase goods which it operates, or the agricultural workers familial subsidiaries or employees, nor where state land and public authorities. Also, the right of pre-emption does not apply to the sale of building land or for industrial facilities, family gardens and orchards, or forests. In any case, the exercise of this right by the SAFER requires the consent of two government officials before each pre-emption. SAFER's pre-emption right may be exercised only on a freely available properties for sale by its owner, notaries are obliged to inform the Agency of all sales activities, then it will decide within two months. SAFER may exercise the right of first refusal and accompanied

by a request to review the price if it considers that this is too high compared to market value. SAFER can not expropriate land, taking it just right state.

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