

POLICY REPORT

Roots of Resilience: Land Policy for an Agroecological Transition in Europe

FEBRUARY 2021



This policy report is published by the Nyéléni Europe and Central Asia platform for Food Sovereignty, the European food sovereignty movement, to set out the vision and strategy of the partnership for securing access to land for peasant, small-scale and agroecological farming systems in Europe. It aims to contribute to a wider policy debate on improving national and EU policy frameworks, which favour access to land for agroecology, based on field-based experience and sound research. Through clear, innovative policy proposals, the report aims to support policy-makers at all levels to ensure access to land for those actors who will play a key role in the EU's transition under the European Green Deal, connecting communities to ensure a better-balanced European society, more sustainable food production and helping to tackle some of the most pressing social and environmental concerns of today.

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For more information, please visit our websites: <https://www.accesstoland.eu/> and <https://nyeleni-eca.net/>

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List of abbreviations

CAP	Common Agricultural Policy
CFS	Committee on World Food Security
CJEU	Court of Justice of the European Union
CSA	Community Supported Agriculture
DEFRA	UK Department for Environment, Food and Rural Affairs
DG AGRI	EC's Directorate-General for Agriculture and Rural Development
DG FISMA	EC's Directorate-General for Financial Stability, Financial Services and Capital Markets Union
EC	European Commission
ECVC	European Coordination Via Campesina
EESC	European Economic and Social Committee
EGD	European Green Deal
EP	European Parliament
EU	European Union
EUROSTAT	Statistical Office of the European Union
FAO	Food and Agriculture Organisation of the United Nations
F2F	Farm to Fork (Strategy)
ha	hectare
LEADER	Liaison Entre Actions de Développement et de l'Economie Rurale
SAFER	Sociétés d'aménagement foncier et d'établissement rural - France
SAPS	Single Area Payment Scheme
Tenure Guidelines or TGs	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
TFEU	Treaty on the Functioning of the European Union
UAA	Utilised Agricultural Area
UK	United Kingdom
UN	United Nations
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNDROP	UN Declaration on the Rights of Peasants and Other People Working in Rural Areas



Local



National



EU

Introduction

Land issues have major social, environmental and economic impacts across Europe. As one of the key underlying factors in the wider agricultural debate, land policy is critical for understanding and shaping the future of European farming, in particular if Europe is to implement the systematic changes set out in the European Green Deal (EGD) and Farm to Fork (F2F) Strategy. Access to and use of land play a key role in employment and vitality in rural areas; in the food security and health of society; in climate change adaptation and mitigation; and in the health of European soils, waters, and ecosystems. Land issues dictate the state of play of the agricultural sector and influence the broader political context.

Agroecological use of farmland, access to land for the community and small-scale farming, and fairer land distribution are key elements which can help guarantee the food security and health of future generations, and the well-being of the planet. They are also core elements of a thriving rural landscape, social structure and culture, as evidenced by the overlap between the objectives of small-scale peasant farmers¹ and those of the EGD and F2F Strategy. Nevertheless, despite the evident synergies with the climate and social goals of the European Union (EU), ensuring access to land for small-scale farming, communities and minority groups is often overlooked.

Numerous complex and interconnected issues threaten access to sufficient land to earn a dignified livelihood in diverse regional contexts: **land grabbing**² (see Box 1) in the global South may be widely recognised, but little has been done to crack down on speculative land acquisitions in the EU, prompting the European Parliament (EP) to call for urgent steps to monitor and curb the trend in Europe. While **land concentration** is a long-term and widespread trend in the EU, it is particularly fueled by agricultural policies that subsidise farms based on hectareage and is currently occurring at an alarming rate, undermining rural livelihoods and healthy, sustainable food systems. In many Central and Eastern European countries, land concentration coexists with land fragmentation in a “dual agrarian structure” characterised by many extremely small landholders, and a few large estates controlling the majority of the land. In general, **land speculation is one of the key drivers of concentration and skyrocketing land prices**. This is closely linked to **financialisation of land**, the process through which land is identified as a financial asset, de-linking it from its productive and communal purposes, and accelerating processes of land acquisition. Finally competing uses and **land artificialisation**, the conversion of agricultural land to non-agricultural uses, are shrinking Europe’s total farmland.

These trends and the land-based inequalities they contribute to have profoundly and adversely affected the 29.1% of the EU’s population who live in rural areas, as well as the European population more broadly.³ Impacts include: reduced opportunities for decent and dignified rural livelihoods leading to rural depopulation;⁴ the concentration of land in the hands of the few;⁵ a

crisis of **generational renewal** in farming⁶ and, in places, an associated reliance on temporary, precarious or migrant agricultural workers who face structural obstacles to obtaining their own farms;⁷ volatile low prices for agricultural products which prevent farmers from earning a dignified living; the rapid degradation of soils and ecosystems;⁸ threats to **food security** and **food sovereignty**; the widening of the rural–urban divide and the loss of basic services in rural areas; and unsustainable urban growth.⁹

Authorities with local, national and international competence shape land use, ownership and management, and thus must support a future of diverse and sustainable agriculture in Europe. They must also contribute to improving the livelihoods of millions of small-scale food producers practicing peasant **agroecology** - peasants, **small-scale farmers**, pastoralists and sustainable livestock farmers, indigenous peoples, small-scale fisher people and fish workers, forest dwellers, agriculture and food workers, migrant and landless workers, cooperatives and collectivities, women and youth - as well as those of city dwellers, in particular the urban poor, and consumers in general.



BOX 1

Land grabbing: a contested term



The term land grabbing is sometimes used to refer to large-scale land acquisitions which are illegal and/or carried out through Foreign Direct Investment. However, dramatic changes in the use and control of land can have devastating impacts regardless of their legality and the source of investment. For this reason this brief approaches the issue of land grabbing from a political economy and human rights perspective, addressing the impact that single or multiple land deals have on democratic land control and vulnerable peoples' ability to access land, as well as broader implications for employment, agricultural biodiversity, sustainability, consumer welfare, and sustainable food systems.¹⁰

A 2015 study commissioned by the EP found significant evidence that land grabbing is underway in Europe today.¹¹ Land grabbing in the European context is associated with a number of shifts in political, social and economic power, resulting in serious changes in farming mode, land use, actor involvement and holding size.¹² While much of this has taken place through legal market mechanisms, more classically understood "land grabbing" (involving illegal or extra-legal acquisition of land, forced sales, etc.) has also been documented in Europe.¹³ On the whole, under-regulated investment in the European countryside has had distorting and damaging effects on agriculture and rural communities.

1.1 Our Political Moment

The challenges facing European food and farming systems, and land governance, exist in a broader global political, social, and ecological context. We must find collective answers regarding what kind of society we want to live in, and what form of society our planet can support.

The Covid-19 pandemic has revealed weaknesses in the globalised and industrialised food system. In Europe highly centralised supply chains faltered as restaurants and institutional buyers shut down, slaughterhouses and food processing plants failed to protect workers from serious outbreaks, migrant labourers were caught up in border closures or forced to work in unsafe conditions and fell ill as a result,¹⁴ and biased public-health measures disrupted local markets even as supermarkets remained open.¹⁵ At the same time, civil society actors in many contexts saw legislation apparently pushed through with minimum public debate, dialogue, or buy-in.¹⁶ Despite these challenges, small-scale and peasant food producers, and associated civil society organisations, mobilised to feed people with local and healthy food at accessible prices, showing the strength of embedded local food systems.¹⁷ In the coming months and years the Covid-19 pandemic will likely continue to bring increased precarity and financial vulnerability, rising food prices, and unpredictable long-term impacts on public health, infrastructure, and education. Funds like the NextGenerationEU and other instruments to support recovery must recognise and build on the strengths revealed by communities' responses to the crisis, and avoid further undermining the right to food.¹⁸

While the Covid-19 crisis revealed and intensified challenges facing our society, it did not create them. The unfolding **climate and environmental crisis** has also brought new attention to food systems and to the urgent need to transform our relationship with the Earth and build sustainable societies that meet communities' basic needs, provide decent livelihoods and regenerate natural systems. Within the EGD, we see the ambition to tackle these challenges through truly sustainable farming models and food systems, but measures in support of this are still being determined. Past measures have too often had unanticipated negative consequences, from land grabbing and environmental destruction linked to agrofuel production¹⁹ to environmental destruction linked to "green" energy infrastructure,²⁰ to social division and conflict around measures intended to curb environmental impacts of agriculture that have obscured differences between farmers and fuelled hostility and misunderstandings.²¹

The uniqueness of this moment is also mirrored in other aspects of the wider agricultural context. Generationally, **the ageing population of farmers** means that millions of hectares will change hands in Europe in the coming two decades. What happens to that land when it reaches the market is key. The steps taken right now by policy-makers will dictate whether this transitional period will fuel farmland concentration and intensive farming, or enable the entry of a new generation of organic and agroecological sustainable farmers.

Small-scale and peasant food producers and associated civil society organisations mobilised to feed people with local and healthy food at accessible prices, showing the strength of embedded local food systems.

Similarly, a **heightened awareness of systematic barriers** faced by different ethnic, gender and class groups should shape how we approach land policy. These societal barriers are mirrored within the agricultural community²² and play a role in preventing new farming entrants' access to land or affect the ability of small farmers to retain access to their land when faced with powerful industry actors. Aspiring farmers face high land prices and leasing rates, competition for land from established farmers and landholders, and limited access to information, among other obstacles.²³ Since many of these aspiring new entrants also tend to be interested in more environmentally friendly farms,²⁴ these obstacles, whether related to ethnicity, gender, class or age, must be tackled to achieve a more sustainable, socially equitable development of European agriculture.



BOX 2

Rural women in the EU²⁵

Women and girls are central to the sustainability of rural households and communities, and to improving rural livelihoods. However, their role is often overlooked and many inequalities and forms of gender discrimination persist. Negative attitudes surrounding the capabilities of women entering the profession, as well as practical and administrative issues related to the status of being the “spouse of a farmer,” are just some examples. Key findings regarding their situation in Europe show that:

- ▶ They make up less than 50% of the total rural population, represent 45% of the economically active population, and about 40% of them work on family farms. However, these figures under-represent their true contribution to rural economies, as they are more likely than men to work in the informal economy, which these statistics do not reflect.
- ▶ The rate of self-employed women in rural areas is about 38%. Around 30% of farms across the (former) EU-28 are managed by women.
- ▶ Women's gross hourly earnings are, on average, 16.2% lower than those of men in the EU-28. The gender pension gap is 37.6% in the 65+ age group, and is 10% higher in rural areas.
- ▶ EU gender policies are insufficiently implemented on a national level. Gender issues should be integrated into rural policies at various levels (EU, national and local) and there is a need to intensify research on rural governance structures and processes from a gender perspective.

Questions about migration and national identity have grown increasingly fraught in recent decades, with some governments cracking down on freedom of speech and **authoritarian and nationalist tendencies** finding unprecedented public platforms, often with special impacts in rural areas.²⁶ The link between populist attitudes and land policies becomes clear in the context of acute crises for rural areas and livelihoods, as young people leave the countryside and small

farms struggle to survive. In Europe and elsewhere, opportunities for rural-urban collaboration to find real solutions have been jeopardised by a lack of nuanced conversation around different types of agriculture resulting in so-called “agri-bashing”.

A growing body of research shows that short food chains centred around small-scale food producers and peasant farmers in collaboration with local communities can and must be a major part of the solution to these social and ecological challenges. Agroecological, sustainable farms are resilient in the face of crises²⁷ and help to nourish communities, provide sustainable livelihoods, and reduce emissions.²⁸ **Rural areas are sources of creativity and innovation** as small-scale producers and other rural people embrace agroecology, alternative food networks and local markets and build new relationships and networks of solidarity between urban and rural communities. These innovations are vital to creating a genuinely sustainable and equitable economy built around solidarity and care and able to tackle the climate crisis and other future crises.

However, these innovative and grassroots solutions are often obscured in over-simplified public conversations around agriculture, and **must be supported by policy-makers at every level in order to reach their full potential**. This report aims to show some critical policies and practices which can be put in place to support agroecological peasant farmers’ access to land, and therefore support them in implementing their solutions for more resilient and democratic food systems, sustainable livelihoods, flourishing rural and urban communities, and healthy and sustainable food for all.



Reportage La Durette ©TDL Sandrine Mulas

Our vision: why we care for land and how we want to see it used

The Nyéléni Europe and Central Asia Food Sovereignty Network (Nyéléni ECA) brings together civil society organisations of peasants, fishers, pastoralists, forest workers, indigenous peoples, and consumers; trade unions; NGOs; environmental justice, solidarity, human rights and community-based food movements; journalists and researchers. It aims to enhance existing food sovereignty initiatives and to strengthen our work at local, national, regional and global levels. Food sovereignty has played an increasingly important role in transforming food and agriculture systems and tackling related social and environmental challenges. It puts agricultural producers and consumers at the centre of the debate, and supports all peoples in their right to produce their own food. In that sense, our network puts forward a vision of land that opposes current trends of financialisation and industrialisation of agriculture, representing and defending small-scale food producers and those practising peasant agroecology, bringing benefits for the local community and for society as a whole.

Land for us is **not a commodity**. It is not a financial asset, but a **finite natural resource**, which has been massively and rapidly depleted in both quantity and quality over the past decade. Land is a living territory with strong social, cultural, environmental and economic functions, and a critical piece of the

puzzle in implementing the transition to a **new generation of ecologically regenerative farmers**. At a moment when the ageing farming population in Europe is about to retire en masse,²⁹ there is a critical need to secure land for the next generation of peasants, small-scale farmers and rural workers. There is space for the growing number of people seeking to enter farming³⁰ and supporting them is crucial for farm generational renewal and continuity. The trend of new actors entering farming has the potential to reverse the unsustainable growth of cities, to breathe new life into devitalised rural areas and to sustain established and vibrant peasant communities in Europe.

This revitalisation is being driven partially by new alliances and co-operations emerging across the rural-urban spectrum, including diverse territorial markets and **Community-Supported Agriculture (CSA)**. We also see alliances among farmers and other people working in rural areas (e.g. fishers, farm workers, indigenous peoples, craftsmen, rural tourism workers, environmentalists,

Land is a living territory with strong social, cultural, environmental and economic functions.

researchers). New rural-urban linkages aim at better provision of services and infrastructure (e.g. education, public transport, health, internet access, renewable energy and waste management); at supporting generational transfer; at recognising and strengthening the role of rural women and youth; at nurturing cultural heritage and rural roots; at preservation of the environment, water, seeds and biodiversity; at addressing the climate crisis; at exchanges of information and knowledge; and at diversification of economic activities. These diverse actors and initiatives depend on access to land and can be united by a vision of land stewardship: how land is used, maintained and enriched, and how it impacts rural areas and society as a whole.

Furthermore, and relatedly we see land as a **commons** or territory at the heart of our societies, **that shelters ecosystems and biodiversity and that should be protected**. The concept of territory is complex and subject to multiple interpretations. Among ethnic nationalities and indigenous peoples, and for the members of our network, territories connote holistic relationships between human collectives and the bio-ecological surroundings on which they depend to satisfy their material and economic needs, construct social and political relationships, and develop culture and spirituality. Land is, therefore, fundamental to guaranteeing a multiplicity of human rights - a fact which has been recognised in a growing number of international instruments, which emphasise that land issues are cross-cutting and relevant in every country (see Box 9).

Everybody can and should have a voice in defining how land is used and managed, as well as its agricultural orientations. From local to European levels, citizens and local communities can participate in planning and managing land use, together with farmers, farming institutions, local authorities and others. Decisions and decision-makers should take into consideration the international impacts of European policies, ensuring that protections for European residents do not come at the expense of vulnerable people elsewhere in the world.

Managing land as a commons means finding a better balance between the needs and capacities of landowners, farmers and other users of the land, supporting tenure regimes that rebalance users' rights and ownership rights, and collaborating with public and private landowners, who wish to develop better use and governance of their land.³¹ Our vision of land is democratic, based around strengthening communities' voices and decision-making power.

People's visions and voices are critical because land is the cornerstone of any large-scale, systemic transition towards fair, sustainable, resilient food systems, and food systems themselves are



Haut-Somont ©TDL Rhône-Alpes Bérangère Dumoulin

key components of sustainable societies. Land is the first building block to regenerate the agroecological, peasant way of farming necessary to fight climate change. In Europe, a constellation of experiences have developed showing new ways to protect agricultural land, offer access to land for agroecological peasant farming and get the next generation of farmers started, a selection of which are described in the following chapters of this report.³² These rich initiatives make systemic change tangible, and show what a different approach to land can bring.

For many social movements, the struggle against land grabbing and concentration is central. Roșia Montană (Romania), Somonte and Marinaleda (Spain), Notre-Dame-des-Landes and A45 (France)³³ represent just a few such initiatives, where committed citizens root their collective action in the right of peoples to define their own food and agriculture systems. They focus on restoring democratic control over a key aspect of our existence: how we feed ourselves. They value food producers, they promote the re-localisation of food systems and empower local actors, they contribute to building knowledge and skills, and they work with nature.

We call this food sovereignty, and it is the common ground of these experiences. Food sovereignty is not an objective or a condition, it is a process adapted to the people and places where it is put in practice. *“It is a “process in action” that strives for solidarity, not competition, and for building a fairer world from the bottom up”*,³⁴ that must be supported by structural changes in policies at local, national, European and international levels.

Food Sovereignty is not an objective or a condition, it is a process adapted to the people and places where it is put in practice.

Under this holistic approach, land is not for the few, it is for the many: race, gender, and economic equity are key. Women, who play critical roles in agroecological food production and distribution systems, must have equal opportunities to access and manage land. Alternative agriculture initiatives represent a platform both for the defense of gender equity and minority rights more broadly. We can name for example the emblematic UK-based collective Land In Our Names (LION), which addresses land justice as a centre point for issues around food insecurity, health inequalities and environmental justice. LION also strives to transform the narrative around how land relates to intersections of race, gender and class in processes for systemic change. Land workers, many of whom are migrants, should see their contribution to farming recognised, and their rights should be protected. Many other social groups are also directly affected by the way land is used (among others, forest workers, fisher folks and indigenous peoples) and they should be actively involved in land governance processes. There is much to learn from traditional, indigenous, and commons-based land management.

The most impressive achievements of grassroots movements for access to land include not only providing better food but also more engaged, active and empowered citizens. These initiatives and practices can be scaled out and implemented in a range of new places, according to the contexts and needs of local communities, and in the framework of an enabling policy, legislative and institutional environment, and are detailed in the publication “Your Land, My Land, Our Land: Grassroots Strategies to Preserve Farmland and Access to Land for Peasant Farming and Agroecology”. This report aims to highlight the key policies necessary and available at all levels to support these transformative initiatives.

Analysing the land policy debate in Europe

Land policy consists of regulations and laws which set out a governance framework for land management. It establishes or clarifies the roles of institutions and actors across administrative levels, the nature and character of land rights, and mechanisms to regulate land transactions, distribution and use. By setting the terms for how land can be accessed and by who, land policy can create enabling or adverse conditions for small-scale agroecological farming; flourishing, resilient and sustainable food systems; and thriving peasant and rural communities.

Different approaches to land policy exist, reflecting distinct paradigms. Strategies range from more market-oriented approaches, where land is treated mainly as an economic/financial asset, to **human rights-based approaches**, where land is regulated as a common good. This influences the degree and kind of regulation around land transactions, the (de)centralisation of governance, how competing land use claims are addressed, and the degree to which land users are included in decision-making. Land policy is also directly impacted by and intertwined with other sectoral policies, such as agriculture, land use planning, food security, water, other natural resources, with impacts on coordination and efficiency. These interactions may be more or less systematically addressed by land policy frameworks.

While land policies are usually framed at the national or regional level, they are directly influenced by supra-national policy making including the EU-level. Understanding the impacts of current land policies, and the possibilities for transforming them, requires attention to both scales. For this reason this chapter focuses first on national and sub-national policies, and then on the EU-level, revealing some of the complex relationships and interactions between these interlocking policy frameworks.

3.1 Land policies at local and national level

Land policies are shaped by States' overall development strategies and associated economic, social, cultural and environmental objectives, as well as historical factors and the evolution of agrarian structures up to the present-day. Member States respond to EU-level regulations and other international commitments. But, in general over recent decades, **national laws and policies have failed to protect small-scale farmers**; offer opportunities for robust public and community engagement in land governance; or support innovative proposals for small-scale agroecology

and flourishing food systems. Policies have instead directly or indirectly supported the growth of large-scale, industrialised, and environmentally damaging agricultural models.

3.1.1 What tools can policy-makers use to protect small-scale agroecological farmers' access to land?

There are many ways in which policy and decision-makers can support and promote small-scale agroecological farming. This publication will focus on seven key areas: transparency and monitoring of the land market and land tenure system; strengthening tenant protections; preventing speculation and concentration; progressive tax and fiscal policy; targeting land grabbing; developing or strengthening pre-emption rights for vulnerable users; and strengthening public and democratic control of land. In each area there are diverse tools available which are being used in different ways in different European jurisdictions.³⁵

Transparency and monitoring of the land market & land tenure system

Accurate, comprehensive, and accessible information on land is an essential precondition for just effective, and accountable land policies. Data must be collected by appropriate structures, collated and made available in a way that vulnerable groups can access and use. For the purposes of equity and accountability, policies around land data must consider education, empowerment, and resources needed for genuinely equitable access to information.

In many countries today, there is limited information about landholding patterns.³⁶ Most countries publish some land use information, but this data is often incomplete, users may need to pay to access it,³⁷ and access may require significant technical skills which economically and socially marginalised populations are more likely to lack.

The SAFER mechanism in France (see Box 3) is one tool for transparency: it monitors land sales, and additionally has some (limited) powers to intervene in problematic sales. However, not all collected data is publicly available, and whole categories of transactions fall outside its remit. As discussed below, SAFER's powers do not extend to transfers of (shares in) land-holding companies, allowing ownership and control of land to be transferred without due oversight. This situation is not unique to France: financialisation of land and the rise of "contract farming" make it increasingly difficult to monitor and understand ownership and thus changing trends in relation to land, meaning effective public monitoring and transparency initiatives are ever more crucial.

Land trends also represent a major blind spot in EU-level data coverage, making it difficult to compare national contexts, assess the extent of land access problems and take the requisite actions. The evolution of the agricultural land market – particularly the artificialisation of agricultural land – is poorly documented, with major discrepancies between Member States. Differences continue to be observed between agricultural land (National Land Registries) and Utilised Agricultural Area (based on CAP declarations), reflecting the failure to agree a single EU-wide definition of agricultural land. In this context a **European Land Observatory** (see Chapter 4 for detailed proposal), housed at the European Commission (EC) and tasked with officially gathering robust, harmonised and legitimate land tenure data could play a critical role.

Strengthening tenant protections

With farmland becoming increasingly expensive in many parts of Europe, tenancy and land lease agreements are key to farmers' access to land. This is especially so for younger or new farmers. **National laws that protect the rights of tenants and regulate tenancy agreements are therefore of vital importance in ensuring farmers' access to land.** Many EU countries have regulations in place which provide specific protections to tenants of agricultural land. These may include controls on rent levels, minimum lease terms, restrictions on the conditions under which leases can be terminated, or requirements that tenants farming land have a "right of first refusal" should a landlord opt to sell the land. Other proposals include linking land lease to land use and sustainability criteria, allowing land to be leased to farmer collectives, lifting minimum size requirements in order to facilitate rental agreements for small parcels of land.

While these can be useful measures, land policies must be viewed holistically, and assessed in virtue of their overall impact on access to land. Strengthening tenants' rights without due consideration of other factors can sometimes result in negative side effects. In some cases, improved tenant protections have led to increased land sales or land retention, as some landlords were reluctant to take on what they perceived as increased risks or responsibilities. Nevertheless, strengthening the position of tenant farmers by providing them with **greater long-term security in their access to land**, allowing them to invest and freeing them from the burden of constant contract renegotiations can help in overcoming tenure insecurity and high levels of dependency on landowners.

Measures to prevent land speculation and concentration

To prevent speculation, some countries have introduced price controls on land transactions. This can concern the sales market, as is the case in Hungary,³⁸ where additional regulations pertain to the sale of agricultural land, or Germany where prices more than 50% above the market rate can lead to a sale being blocked.³⁹ In France, in addition to controlling land sales, SAFERs (see Box 3) must authorise farming of available agricultural land (whether through sale or rent agreement), or expansion of a farm beyond a certain size. **This control over farm structures aims to ensure that farms are neither too big nor too small to be efficiently productive whilst remaining family-run, peasant farms** according to the model set in the 1960s.⁴⁰ Elsewhere, regulations limit speculation by addressing the rental market, with ceilings to protect tenants (e.g. in Belgium with a maximum rent price⁴¹) as well as floors to protect owners (e.g. in France, which has both price floors and ceilings⁴²). In countries that choose to let the market set prices (e.g. England, the Netherlands), land is out of reach for small-scale and young farmers.⁴³ Price controls can help to remedy this challenge. **At the same time these policies can reduce the ability to derive "super profits" from land speculation, making this less attractive for investors.** Policies which reduce the conversion of farmland to other uses whether through "green belts" (UK) or other farmland protections, can also reduce speculation by removing the possibility of making profit by converting land for housing, commercial, or industrial developments.

Other policies aim to prevent or limit speculation by introducing residency (or other) requirements for buyers, limiting land ownership to real people, capping the amount of land one can own, or, as in Switzerland, allowing the sale of agricultural land only to those who work the land.⁴⁴ This is a

way to prioritise local acquirers likely to work the land and, if well designed, keep control of land in the hands of communities. However, such measures have also been controversial: in some cases they have been vulnerable to corruption or used to protect special interests; requirements for “active” farmers have sometimes excluded marginalised small-scale and peasant producers; and some countries employing these measures have come under fire from the EC, who claim these measures are not in accordance with the free movement of capital. Countries can also adapt their tax regime to prevent concentration and speculation.

Using tax and fiscal policy to support active farming and generational renewal

Tax and fiscal policy can play an important role in structuring land regimes as they influence decision-making processes around land through various financial incentives. A key component of the 2016 Scottish Land Reform Act was the introduction of a land value tax in order to **discourage land hoarding, guard against vacant or derelict land, and support productivity and diverse land ownership**. Tax advantages can also be conferred to support farm succession and continuous agricultural land use. This was part of a tenancy reform bill in Wallonia, Belgium. In order to encourage long-term leases (27+ years) and career leases (up to the legal retirement age), land owners may apply for reductions to gift and inheritance tax owed – if a long-term lease is concluded with a young person under 35 years of age, this would confer a 55% reduction in inheritance tax.⁴⁵ Similarly, in Ireland, a tax incentive of up to €40,000 is provided to landowners who enter into long term lease agreements with tenant farmers, serving as a stimulus to allocate land to active farmers.⁴⁶

However, tax incentives designed to support generational renewal and excessive land accumulation can also have unintended consequences or perverse effects. In Germany, for example, relatively low inheritance taxes on agricultural and forest land have also encouraged non-agricultural persons to buy up farm and forest land as a tax avoidance strategy. In the Netherlands, meanwhile, a policy that allows for income tax relief for urban development projects that reinvest a share of their profits in agricultural land can put (aspiring) farmers at a disadvantage compared to those with greater capital and other non-agricultural revenue streams.⁴⁷ **It is, therefore, important to monitor the effects of tax and fiscal policies over time in order to ensure that their stated purpose is being met.**

Regulations to target land grabbing

A number of Eastern European countries sought to curb speculation with temporary moratoria⁴⁸ on sales of agricultural land during the process of integrating into EU markets. These moratoria helped to reduce or slow the formal acquisition of Eastern European countries’ land. However, these policies were sometimes circumvented, e.g. by the negotiation of emphyteusis contracts or extremely long-term leases with rights so comprehensive as to resemble full ownership. While they arguably helped to forestall worse outcomes, the moratoria did not succeed in meeting their proclaimed goal of promoting medium-size farms worked and managed by their owners.⁴⁹

Furthermore, in some cases, and especially in the context of widespread corruption, moratoria and other measures designed to curb foreign acquisition may even have helped to exacerbate

concentration of land in the hands of domestic elites.⁵⁰ Countries including Romania and Hungary have also sought to curb land grabbing and land speculation through anti-corruption measures, audits, and amendments to the Criminal Code, but the effectiveness of these measures remains to be seen.

Public regulation to curb land grabbing and other irregular practices is made even more complicated in the era of financialisation: “the process through which the real economy is subordinated to the financial economy.”⁵¹ As new financial actors, including banks, pension funds, insurance groups and others, have targeted land as an attractive investment opportunity, the ability of public authorities to regulate these actors has not kept pace. This is especially true given the often complicated web of intermediaries through which these investments flow in what can amount to hundreds of interconnected agricultural holding and subsidiary companies and various shareholding arrangements. Policies to force financial disclosure and reveal beneficial ownership structures as well as limiting farmland transfers to non-physical persons, possibly in accordance with anti-monopoly provisions, should all be on the table. Ultimately, policies which strengthen agroecology and help to place the focus back on the “real” economy, prioritising farmers’ contributions to society over the production of profit, are needed.

Pre-emption rights for vulnerable users

On an unregulated land market, land goes to the highest bidder, usually an investor or neighbouring large farm with sufficient capital to expand, rather than a young or aspiring farmer interested in small-scale agriculture. **Small-scale farmers, young farmers, women, indigenous peoples,⁵² people of colour⁵³ and migrants often face additional financial, social, or other obstacles accessing land.** States can address these issues by implementing specific measures to give these users priority.

Some countries do this by granting pre-emption rights over land sales, meaning that a designated body or actor has the right to intervene in and pre-empt land sales in accordance with certain conditions or principles defined in law. If associated with well-designed objectives, and especially where supported by either price controls or financial support, these can provide an effective avenue to ensure that land is used for agroecological purposes while preventing further land concentration and unsustainable land use. They can work in favour of tenant farmers, neighbours, farmers specifically interested in engaging in agroecology, women, relevant land management agencies, local authorities, etc.



BOX 3

SAFER: Land agencies with strong pre-emption rights in France⁵⁴

SAFERs are organisation(s) for rural land management and settlement, established by law in 1960, to which all planned sales of agricultural and rural land must be communicated. SAFERs are involved in some 20 – 30% of land sales annually, where they may play the role of intermediaries, acting on behalf of the seller to select a buyer according to criteria set by law. Alternatively, but less commonly, they may intervene

in sales on the basis of a third party wishing to exercise pre-emption rights in a sale. In this case, the SAFER investigates whether the person requesting pre-emption has better plans for the land than the potential buyer with regard to the nine objectives defined by law. If so, it buys the land in order to re-sell it through a call for candidates. Pre-emption can be justified by a variety of objectives including farm viability, environmental benefits, and reducing land speculation, among others. While only 10-15% of land bought by SAFERs is through pre-emption, this legal possibility nonetheless helps to shape the land market.

In practice however, the frameworks for pre-emption rights are not always able to respond to new challenges, including the growing role of financial actors.⁵⁵ Germany and France have created government-supervised agencies (respectively '*Landgesellschaften*' and '*SAFER*'), whose key mandate involves monitoring land sales and intervening when they do not correspond to selected criteria (e.g. maximum size, price, use⁵⁶). However, these agencies intervene in a minority of land sales and criteria are not necessarily intended or sufficient to promote small-scale farming or agroecological practices, since they generally do not include explicit criteria related to equity or sustainable uses.

In other contexts, regulations have been implemented requiring specific professional or educational qualifications for purchasers of agricultural land. These measures were originally put in place both to encourage land ownership by farmers and to support the professionalisation and technical development of European agriculture. However, there are a number of challenges with this model and the resulting regulations, which tend to favour capital- and technology-intensive agricultural methods and exclude peasant farmers, migrants, and others who may have received their education informally or through apprenticeships, without a recognised qualification. While such measures have the potential to protect farmers, they can also increase barriers for people to move from working the land to owning and running their own farm. **In order to protect small-scale, agroecological, and peasant farmers it is necessary that such regulations specifically mention these groups.**

Finally, agencies like SAFER are also limited by their inability to monitor and intervene in the sale of shares in a land-holding company. Transferring shares in a company which owns land changes the owner of the land, but is not treated in law as a land sale. This vehicle is widely used to transfer land ownership today, giving investors significant leeway to avoid complying with regulations to control land prices and exacerbating land concentration.⁵⁷ This is one way in which increased financialisation of land can reduce transparency and democratic oversight over the use of land, undermining tools that were intended to protect this.

Strengthening public and democratic control over land

A range measures are available for governments to directly support more participatory and democratic decision-making on land at the local level, allowing communities to better support local farming and food systems, encourage social cohesion, and drive sustainable rural livelihoods.⁵⁸ **Beyond devolving responsibilities to local government bodies, more effective land governance also**

comes with the broader inclusion of actors on the ground: citizens, producers, consumers, community groups etc. The following offers a non-exhaustive list of public policy tools in use across Europe to encourage smarter and more responsive decision-making on matters relating to land and land use:

a) Land reform

While the politics of land reform vary enormously, the option for major national legislation to be introduced to tackle land issues is a forceful one. Scotland provides perhaps the best example of land reform in the European context in recent years (see Box 4 below). In 2016, the Scottish Parliament passed the Land Reform Act with the stated goal “to advocate for [...] a modern system of varied ownership [...] which enables communities to flourish, [...] development to be sustainable, [...] where disputes are minimal”.⁵⁹ To better involve citizens in land management Scotland has introduced an innovative legal framework that promotes democratic control over land.⁶⁰ Towns, municipalities, or certain kinds of civil society groups are able to buy land or request to transfer assets from a public body to a community body (a formal or informal group, often local residents, but sometimes people with an interest in a specific issue such as conservation) if they want to manage it. While the implementation of this framework is still in a very initial phase, and land distribution in Scotland remains extremely unequal, the law opens up the possibility of a new paradigm for land governance - one that relies on a **human-rights centred approach, recognising that land is not merely a commodity but a key factor in achieving key social and environmental objectives.**⁶¹



BOX 4

Scottish Community Right to Buy

Scotland has one of the most concentrated land ownership structures in the world: less than 500 people in Scotland own half of Scottish privately owned land.⁶² Since devolution (Scotland being allowed its own parliament) in 1999, there have been increasing calls for land reform and changes in land ownership. Three significant pieces of legislation have given new powers to communities to shape the way land is used in Scotland:

1. **Land Reform (Scotland) Act 2003:** This established a “right to buy” for rural communities with a population of up to 10,000: when land is put on the market, the local community has a “right of first refusal”, provided they have previously registered their interest in participating in the programme. Certain specially defined and protected communities (namely the Crofting Community) additionally have the right to force land sales under certain conditions.

2. **Community Empowerment (Scotland) Act 2015:** This Act extended the “right to buy” mentioned above to communities over 10,000, urban areas and communities of interest in some instances. It also included legislation to control Asset Transfer requests, which communities can use to take on management of assets rather than own them and is more commonly used than the Right to Buy. The Act also established the Community Right to Buy Abandoned and Neglected Land. The community must prove that it is

wholly abandoned or being used in a way that harms the environmental wellbeing of a relevant community and thus it is in the public interest to transfer ownership.

3. **Land Reform (Scotland) Act 2016:** This Act established the Community Right to Buy Land for the purpose of Sustainable Development where the transfer of land is likely to promote sustainable development and is the most practicable way of achieving this. The act also created new agricultural lease terms, and gave agricultural tenants new rights to relinquishment and succession of leases.

The Right to Buy Abandoned & Neglected Land and Land for Sustainable Development established in the 2015 & 2016 Acts can both be used to force the sale of land, though strong criteria are set by the legislation on the terms of the sale and the community group must purchase the land at its market value.

This legislation is new and its impacts, effectiveness, and accessibility for communities remain to be seen. Nonetheless it offers a promising model for policies that could help to support agroecological peasant agriculture.

b) Public land banks

Public land banks are public agents or bodies that acquire land in order to make it available for use in the public interest. Criteria for defining the public interest vary widely, but positive examples of land banks exist. In Asturias, Spain, the Regional Land Bank Commission manages land under a public purview aligned with its regional development programme. This programme has four main elements within its overall goal of supporting rural regeneration including: **prioritising the transfer of land to holders of adjacent plots (rather than outside investors), supporting young farmers, encouraging start-ups/new farms, and stimulating organic farming.**⁶³ In some cases, public land banks are linked to pre-emption rules as in the German province of Baden-Württemberg, where land whose sale is blocked can be acquired by the *Landgesellschaft* and used “for the improvement of the agricultural structure”.⁶⁴



BOX 5

County Farms

England's county farm estate was initiated in 1892 as an affordable way into farming for young farmers. Local authorities were given powers to buy and lease out land to small tenant farmers. By 1936 these smallholdings had grown to an estate of 459,103 acres - offering more than 30,000 holdings. But it was not until the Agriculture Act of 1947 that county farms per se were established.

Between 1977 and 2017, due to the neoliberal government's agenda of privatisation, deregulation, and council budget cuts (prompting sell-offs of public land), the estate was halved to just 215,155 acres. Despite this trend, county farms remain one of the most powerful levers that a local authority has for directly helping new people into farming. They are a national public asset and as such they have real potential to support the

economic viability of local farming and to promote innovative and environmentally sustainable farming methods.⁶⁵ In the context of the UK post-Brexit, the future of the county farm estate is deeply uncertain, with the only government commitment appearing in the transition plan published in November 2020 under “The New Entrants Support Scheme”.⁶⁶ This is planned to open for applications in 2022 and will “provide funding [...] for new entrants to access land [...] working with Council Farms and other landowners.”

c) Inclusive spatial planning

Regional and local authorities can engage in inclusive spatial planning to better map existing land use and distribution patterns, manage competing land use claims, and safeguard agricultural land from conversion. Spatial planning can form part of a broader policy of territorial cohesion in which the land and rural areas are valued for the social, economic, and ecological functions they serve. A range of public protections for farmland can be put in place especially for land most at risk from urbanisation including through:

- The designation of green belts around town and city perimeters to halt urban encroachment and limit new development. For example, in the Netherlands, an area of natural, pasture and agricultural land known as the Groene Hart ('Green Heart'), located between the high density population centres of six major cities (including Amsterdam, Rotterdam and The Hague) is protected through restrictions on real estate, greenhouse, and commercial developments, adopted in 2003.⁶⁷
- Requiring land transfer fees for the conversion of agricultural land to non-agricultural, urban use. This has been instituted in the Czech Republic with fees increasing substantially since 2011 to discourage speculative land transfers.⁶⁸
- Working with local food policy councils to develop comprehensive food strategies linking farmers to consumers in rural and urban areas. A plethora of examples exist throughout Europe, with some of the most well known including those in Bristol, Ghent, Milan and Turin. Specifics vary but many focus on issues around building shorter, more sustainable food supply chains set within a more circular and place-based economy.

d) Land and rural development partnerships

A range of land and rural development partnerships between small farmers and local/regional authorities can help forge a more inclusive land policy and build more resilient farming communities. For example:

- In Euskal Herria, community groups together with the local government created new instruments to make it possible for farmers and other residents to work together to map available land and plan for sustainable local food policy at the level of the rural municipality.⁶⁹

- In the region of Karditsa, Greece, in the wake of the 2008 financial crisis, the local government initiated a wide range of policies to support an “ecosystem of collaboration” based on food co-operatives, a co-operative bank with a strong agricultural lending profile, and the transition to a more social and solidarity economy.⁷⁰
- In the Cévennes, France, the experience of the Intercommunal Pastoral Pact (16 communes) formalises, around the general and collective interest of the territory, legal innovations based on negotiated law. It establishes a territorial pastoral easement (a right to use/ traverse land belonging to another owner), thus making it possible for pastoralism to be continued on the territory.⁷¹

e) Taking land out of the market: land as a human right and as a commons

Finally, there are also mechanisms for taking land out of the market completely. To many small-scale food producers and rural residents, **land is much more than a commodity to be bought and sold, but represents the basis of their livelihoods, way of life and a sense of belonging.** This understanding of land intersects with notions of land stewardship and respect and protection for the commons (see Box 6). It also speaks to the importance of recognising the multiplicity of land access regimes beyond individual, private property rights, including forms of informal, collective or customary rights. These are increasingly being codified at state level and referenced in international instruments like the Tenure Guidelines and UNDROP (see Box 9). These broadly cast land as a human rights issue, not a commodity.



BOX 6

Commons in Romania

Large areas of forest and pasture land in Romania continue to be managed as Commons in the 21st century. Three main types of administration (*composesorat*, *obște*, and *izlaz*) exist in different regions. The three models differ on the basis of how open or restricted membership is (from hereditary and very restricted, to open to all or most residents in a village). Established and maintained over centuries, these local models for managing access to land, especially pastures and forests, provide an alternative to market-based models. At least in theory, they provide an opportunity for village or regional administrations to manage the distribution of land according to a variety of management principles, and taking into account the needs of different (potential) users.⁷²

Within Europe, the historic victory of the Sami indigenous peoples with respect to their community rights to land stands out. With an estimated population of around 80,000, the Sami have developed a rich culture through millennia based on reindeer herding and seasonal mobility, and a sophisticated understanding of the commons. Referencing customary indigenous peoples' rights and law, the Swedish State in January 2020 recognised the primacy of the Sami community with respect to land use and the granting of hunting and fishing rights within their territory.⁷³

Community land trusts are another tool by which land can be taken out of the market, or protected in the face of short-term land market fluctuations. Community land trusts are typically operated by non-profit entities working to bring land into permanent commons. Examples in Europe abound.⁷⁴ In France, Terre de Liens (TDL) works to favour the establishment of a new generation of peasant producers. One of the tools developed is **collecting citizens' investments to purchase land, which is then rented to farmers with "sustainable agricultural and agri-rural projects contributing to employment creation and the local economy"**. Beyond farm acquisition, TDL works with citizens, agri-rural organisations, and political institutions to anchor its farms in wider territorial development processes. In its 17 years of existence, TDL has acquired 6,672 ha, corresponding to 244 farms, 381 active farmers and employees.

3.2 EU Policies: current impacts and proposed policy reforms

3.2.1 An analysis of how EU policy frameworks impact land dynamics in Member States

The EU has advocated at the international level for policies that support land rights, and has endorsed the TGs (see Box 9).⁷⁵ Nonetheless, the case has been made that European investments in land and agriculture have strong negative implications internationally.⁷⁶ Deforestation and land take at international level are the two consequences most documented. However, there is no single, overarching European land policy or framework. Instead, competence for land in the EU is parcelled out between a number of horizontal frameworks (see table below), 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 Common Agricultural Policy (CAP)

The CAP, the EU's largest budget item since its creation (accounting for around 30% of the EU's total budget), has had a particularly notable impact on land concentration in the EU. Indeed, the aid per hectare formula encourages wealthy farmers to adopt a winner-takes-all strategy and an expansionary mindset. As a result, the concentration of land has been matched by the concentration of subsidies in the hands of ever fewer and bigger land holdings.⁷⁷

Current area-based payments benefit large commodity producers, driving up land prices,⁷⁸ encouraging land concentration and making it harder for new entrants to access land.⁷⁹ In 2016, 6.9 % of the EU's farms were 50 ha or more in size but together worked two-thirds (68.2%) of the EU's Utilised Agricultural Area (UAA).⁸⁰ Increasing land concentration and inequality have particularly affected Europe's small farms,⁸¹ often in a way likely to adversely affect women in particular. The EU lost 4.2 million farms (one quarter) across the Member States between 2005 and 2016, about 85% of which were farms under 5 ha.⁸² A farm receiving high EU payments is more likely to grow than farms with more meagre financial means. Both the Single Area Payment Scheme (SAPS) and Single Payment Scheme (SPS) have been shown to favour land concentration⁸³ by providing large producers with greater financial capacity and surplus capital for land purchases, and by providing an incentive for agricultural enterprises to acquire larger areas of land.⁸⁴

Table 1: Overview of some key topics an EU Land Directive should address and key EU policies⁸⁵

THEMATIC	KEY POLICIES	DG	IMPACT
Farm aid and rural development	Common Agricultural Policy (CAP)	DG AGRI	Farm size and structures; farm income; model of ag. production; sector development; land use; land distribution; land prices; land abandonment.
Internal market	Principle of the free movement of capital, freedom of establishment	DG FISMA	States ability to regulate land markets and investments through public policies.
Economic and financial affairs	Fiscal policy	DG ECFIN	Land value tax; property tax; inheritance tax; income tax influence land ownership, contracts, and farm succession.
Environmental affairs	European Green Deal, 2030 Biodiversity Strategy, Natura 2020	DG ENVI	Relationship agriculture and food production to climate action, environmental protection, species conservation.
Food safety	Farm to Fork Strategy	DG SANTE	Relationship between land, agricultural production and food supply.
Energy	Renewable Energy Directive	DG ENERGY	Direct and indirect land use change, public subsidies for renewable energy projects e.g. bio-energy crops, solar panels, wind turbines.
Research and innovation	Bioeconomy Strategy; Food 2030	DG RESEARCH AND INNOVATION	Rise of new bio-tech financial complex; encouragement of mechanisation/digitalisation that takes farmers away from nature (drones, milking robots, etc.) and technologies that they can master from start to finish (headlong rush and technological alienation).
Regional and urban affairs	Territorial Cohesion Policy	DG REGIO	Managing urban development; rural-urban linkages; spatial planning.

The logic of payment per hectare creates a positive feedback loop since land concentration in turn leads to a concentration of support. While the reasons for land concentration and land grabbing are multiple and sometimes linked to local contexts (e.g. land consolidation in Eastern European countries, corruption, off-farm investments, urbanisation, green energy, etc.), the impact of the payment per hectare model should not be underestimated. Indeed, this drive towards farm size expansion is the stated policy aim of DG AGRI, who view this as an intended and necessary process of structural adjustment brought about by CAP. This is underpinned by a

particular understanding of who is a viable and 'active farmer' (or "genuine farmer" as it will be known in the new CAP) and therefore eligible and deserving to receive aid.⁸⁶



BOX 7

Key figures on CAP

With an annual budget of more than 50 billion euros, the CAP structures the European agri-food system. Since 1992, with the introduction of CAP payments per ha, the dramatic processes of land concentration in the EU have coincided with the concentration of the benefits of CAP subsidies in the hands of fewer and larger farms.

On average in the EU today, 80% of direct payments go to only 20% of beneficiaries, with even higher levels of concentration in several countries. This figure is 94% in Slovakia, 89% in the Czech Republic, 85% in Hungary and 84% in Romania. In total, more than 30% of the total amount of direct aid is paid to just 131,000 of the 6.7 million farms in the EU (i.e. 1,95%).⁸⁷

To date, farms of more than 100 hectares represent only 3% of EU farms but cover 52% of the EU's utilised agricultural area. Between 2003 and 2013, 96% of the farms that disappeared were less than 10 hectares and today, two thirds of all farms - those classified as small or medium - cover only 11% of the land.

This trend is all the stronger in the Member States that joined the EU in 2004 or 2007. When CAP direct payments were introduced in these countries, rent and land prices increased, as did farm size. This was particularly the case in Bulgaria where land prices increased by 175% between 2006 and 2014 and the average size of large farms is 671 hectares compared to 300 hectares in the EU.

Redistributive payments remain the best measures to support small and medium sized farms. Indeed, if the payment criteria (additional amount allocated per ha and the capping of ha for this payment) are well adjusted by the Member State, redistributive payments can bring a real plus to small farms.⁸⁸ Start-up aid for young farmers is also an important tool that supports the establishment of new farmers under 40 years old. However, like other elements of the CAP, EU institutions must ensure that these tools are well implemented and cannot be co-opted by industrial farms to further fund and drive unsustainable farming systems. With regard to a fairer distribution of aid, we strongly denounced the lack of absolute capping mechanism in the negotiations leading up to the next CAP. The EC had initially proposed to cap direct aid at 65,000 euros per farm, however new proposals increase this ceiling to 100,000 euros.⁸⁹

Moreover, the **eco-schemes** - a support paid to farmers that meet environmentally friendly criteria beyond the legal minimums - will be less ambitious than expected. First, they should apply in all Member States and will be voluntary for farmers. Second, they will represent just 20-30% of the direct aid received by Member States from the EU, which is as much or less than the current CAP greening measures (30%). Moreover, eco-schemes are expected to focus on allowing farmers

and Member States to choose specific practices from a checklist - which are likely to include also industrial practices such as “precision farming” - without requiring farms to convert their production system. This implies the risk that large farms with solid financial resources will be more able to make necessary investments, while small and medium farmers may be excluded.

EU Treaties

Land policy falls principally within the competence of the states, which have powers in terms of tax regulations and property taxation, inheritance law and land planning. At the European level, the EC limits itself to monitoring the compliance of national land policies and regulations with several provisions of the Treaty on the Functioning of the European Union (TFEU) and faces conflictual situations (see Box 8), notably the principle of the free movement of capital, which prohibits restrictions on capital movements (Art. 63 TFEU), and the principle of freedom of establishment (Art. 49 TFEU).⁹⁰ Another text provides a framework for state action in land matters: the European Charter of Fundamental Rights.⁹¹ Its articles 15 (professional freedom), 16 (freedom of enterprise) and 17 (right of ownership) are at the heart of the process of acquisition, use and sale of agricultural land.

These economic freedoms today are allowed to take precedence over general interest. They promote the concentration, monopolisation and financialisation of land by limiting the ability of states to control the nature of investments made on their soil, which might include limitations on cross-border investments, or other investments which would be damaging to local communities. At present, the Commission considers that Member States have the necessary powers to regulate their domestic land markets and limit land grabbing. In its interpretative communication on land investment, it explains the latitude that Member States have to regulate their land markets without contradicting the European legal framework (See Box 8).

A land market based only on the four freedoms of movement (of goods, people, services and capital) is not comprehensive enough to tackle the risk of discrimination and marginalisation linked to land-grabbing. The precise use of agricultural land is specified in the Constitution of various EU Members States,⁹² thus granting special protection to agricultural land. In legal terms, this makes the need to protect agricultural land of higher preeminence than the free movement of capital and even the freedom of establishment.



BOX 8

Interpretative communication on the acquisition of farmland and European Union law⁹³

In October 2017, the EC published an Interpretative Communication on Foreign Investment in Farmland and European Union law. It aims to clarify EC's interpretations of EU law on farmland acquisition.

The Communication rightly identifies the special quality of agricultural land, which it notes is a *'scarce and special asset'*. It recognises both the competency of EU law regarding the *'specific nature of agricultural land'* as well as the special protections granted

to agricultural land by the national constitutions and land laws of various Member States. At the same time, it notes that *'There is no secondary European legislation addressing the acquisition of agricultural land'* which leaves open considerable room for interpretation as to which land market restrictions are in line with the EU Treaties.

In seeking to provide further clarity and guidance on this issue, the Communication makes a valuable contribution. Unfortunately, the Communication only covers one specific aspect of the acquisition of land and does not touch on many other problems linked to the problem of access to land for small-scale farming and land concentration in the EU. **Thus, it does not respond adequately to the EP's request to publish guidance on how to regulate agricultural land markets in conformity with EU law.**

Firstly, the Communication states that Member States have instruments available via the CAP that allow them to limit land grabbing and land concentration: the support scheme for young people and regions in difficulty or the additional payment for the first hectares. As indicated, there are serious limitations to these tools, which can have perverse effects and do not offset the negative impacts of the CAP on land. Secondly, the Communication, based on the case law of the Court of Justice of the European Union (CJEU) on agricultural land, states that certain restrictions to fundamental freedoms may be acceptable. These include setting ceilings on the acquisition of agricultural land, granting pre-emption rights, state price control or a requirement for administrative authorisation prior to acquisition. At the same time, certain restrictions are prohibited including: obligations for the purchaser themselves to farm, requiring a qualification in agriculture as a condition for acquisition, residence requirements and the prohibition of sales to legal persons.

The comments on various regulatory measures offer some clues as to general principles to follow with regard to the appropriateness of the different measures - including most notably the principles of proportionality, public interest, and non-discrimination. However, they do not resolve the core dilemma at the heart of the matter, which is the discrepancy between the fundamental freedoms enshrined in the EU Treaties and the legitimate restrictions to these freedoms according to justifiable public policy objectives. The Communication falls short of offering clear, precise, operational criteria that would allow states to regulate their land markets with confidence and in accordance with EU law.

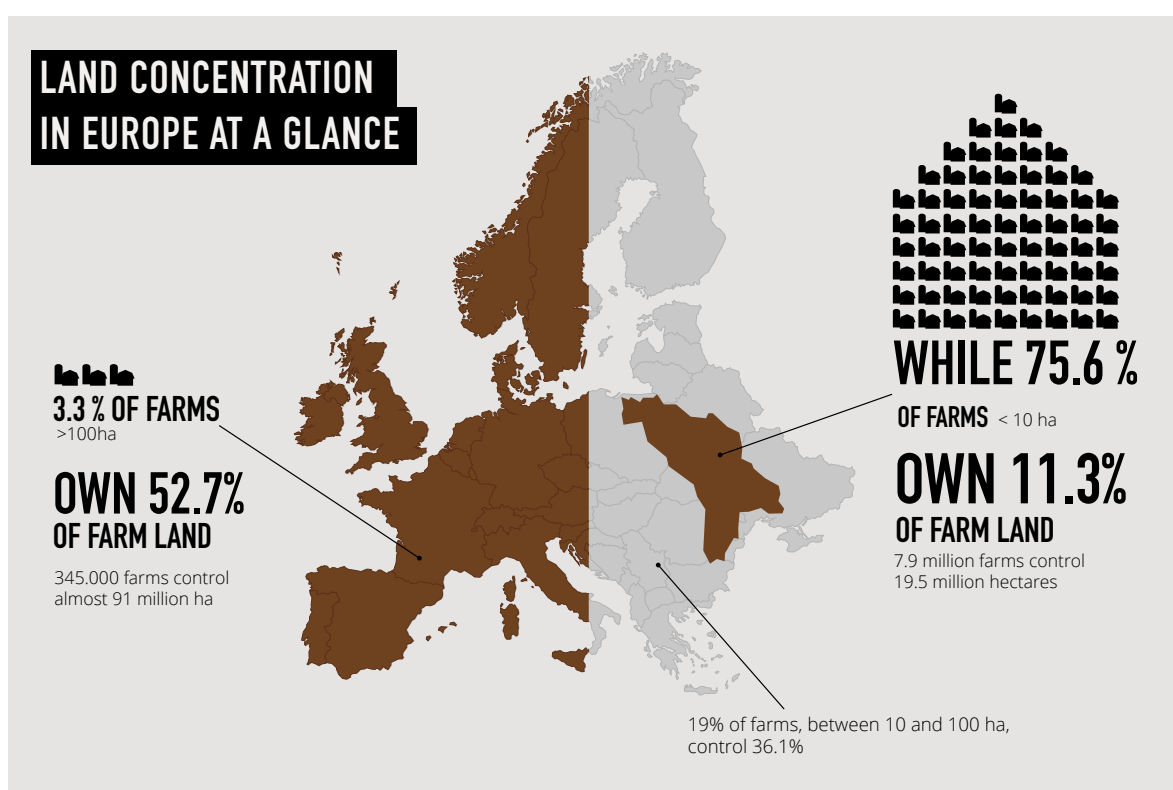
3.2.2 An analysis of the work done at EU level on land

Critical land issues in Europe

The debate within the European institutions on the issue of land grabbing and land concentration in Europe has been growing in the past decade, with an increasing number of organisations, citizens, and EU bodies recognising the negative impacts of the existing policy context, and the need for transformation. While EU institutions were historically reluctant to address the issue of land and agrarian structures from an EU perspective, this has begun to shift. Research commissioned by the

European Economic and Social Committee (EESC) and the EP demonstrated that **dramatic levels of land concentration and alarming instances of land grabbing are occurring throughout Europe**, and that these represent a significant deviation from the European model of farming.

In 2015, the EESC published an opinion entitled “Land grabbing – a wake up call for Europe and imminent threat to family farming”. It identified “the concentration of land as a serious risk [...] This trend is incompatible with the European model of sustainable and multifunctional agriculture where family farms predominate [...] It conflicts with the structural goal of dispersed land ownership, causes irreversible damage to rural economic systems and leads to a type of industrialised agriculture that society does not want”.⁹⁴ The European relevance of land issues is acknowledged. As a recommendation, the EESC called on the European Authorities to discuss whether the free movement of capital into land acquisitions should be unrestricted.⁹⁵ To date, this discussion has only partially happened (see Box 8).



Source: Eurostat, data for 2016, the latest year for which complete data is available. Complete references can be found here: https://www.tni.org/files/land_for_the_few_infographics_2021_update.pdf

The EP has also shown an interest in the topic. It commissioned a study on the “Extent of farmland grabbing in the EU” which was published in May 2015 and examined the rise of large-scale land deals and land grabbing in the EU. The study found significant evidence that farmland grabbing is underway in the EU today. It discussed a number of the drivers of farmland grabbing and examined its impacts on European food security and food sovereignty, rural employment and vitality, and environmental sustainability. **It argued that farmland grabbing, especially when connected to other burning European land issues, calls for a reform of European land governance.**⁹⁶

In July 2016, the Committee of Petitions of the EP organised a hearing on a petition submitted by 80 EU-based and national civil society organisations together with European Coordination Via

Campesina (ECVC).⁹⁷ This was an opportunity to further draw the attention of its members to land preservation, land concentration, and access to land. This petition, “Preserving and managing European farmland as our common wealth”,⁹⁸ advocates that farmland is indeed a European issue, and a major issue for agricultural and rural renewal. It asks the EP to adopt a position on sustainable and fair EU governance of agricultural land, and to call upon the **EC to adapt existing regulations and policies and develop future ones so that they contribute to preserving and managing farmland as our common wealth**. The issues conveyed in this petition received great attention during the hearing and were strongly taken into consideration by MEP Maria Noichl in the writing of the INI Report.

On 27 April 2017, the EP adopted the “INI report on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers”. The report points to the degree of farmland concentration in the hands of a few agricultural and non-agricultural undertakings and the inherent risks such as difficult access to farmland for farmers (especially small-scale and family farmers), as well as impacts on food, environment, etc. Accordingly, the Parliament calls for better monitoring of developments on land sales markets. In particular, it calls on the Commission to monitor all relevant policy areas, namely agriculture, finance and investment, “to see whether they promote or counteract the concentration of agricultural land in the EU”.⁹⁹ In response, the Commission stated in its 2018 Communication that the public consultation on simplifying and modernising the CAP [carried out in 2017¹⁰⁰] had “highlighted a number of issues, including administrative requirements, land rules and in particular high farmland prices in some Member States, which are a major concern for farmers. In addition, concerns have been expressed previously about the different levels of direct payments between Member States, which may not always have ensured a level playing field in terms of access to agricultural land”. However, direct payments remain high and central to the functioning of the new CAP (see Section 3.2.1).

These various contributions illustrate the start of a shift in the debate on land in Europe. They have helped to build a common understanding of the root causes of the distortions observed in the EU land market, and have highlighted the responsibilities at the EU level.

Towards an EU land governance framework

From an EU perspective, addressing land issues implies challenging this current situation. As we have seen in the previous section (analysis of how EU policy frameworks impact land dynamics in Member States), the EU’s approach to land issues is mostly technical, market-based and strongly enshrines private property rights. It finds its origins in the fundamental freedoms of the EU Treaties, in which land is considered a commodity or an asset and thus falls under the rule of free movement of capital within the common market.

But the EESC opinion challenges this view: “given that the supply of land is finite, the usual market rules should not apply”.¹⁰¹ The EC in a 2017 Communication (see Box 8) likewise identifies the special quality of agricultural land. Based on several Court of Justice of the European Union (CJEU) cases, the interpretation of EU law also recognises the “specific nature of agricultural land” and the legitimacy of special protections granted to agricultural land by the national constitutions and land laws of various Member States. Land is not an ordinary commodity that can be manufactured in

ever larger quantities. It serves as the basis of people's livelihoods, territories, cultures, traditions and interactions with nature.

Member States have tools at their disposal to define suitable policies for their agricultural land markets.¹⁰² **Additionally, the CJEU has recognised that the objectives of preventing land speculation and preserving traditional forms represent “overriding public interests”,**

but for the Commission national measures can only be permitted if a number of conditions are fulfilled (see Box 8), including the “principle of proportionality” which states that objectives must not go beyond the least restrictive measure necessary to achieve their goal. **However, in practice, it is often unclear what this means, so that laws implemented by Member States can be subject to challenges from the EU institutions.** Therefore, regulatory tools are often under-used, and national land markets do not always effectively serve states' own policy goals.

It is time to develop a clear EU framework for responsible governance of tenure of land.

As a result, the EP has itself called for a re-examination of land governance throughout the EU and has asked the Commission for greater guidance, to be provided in the form, for example, of a clear EU guiding principle for the structure of farming or a series of recommendations on EU land governance.¹⁰³ Unfortunately, the EC's Communication did not respond to the EP's request and clear guidance on how to regulate agricultural land markets in conformity with EU law has not yet been published. Other key recommendations directly drawn from the EP's report, such as establishing a Land Observatory, setting up a high-level task force are still missing.

Finally, the EP's report¹⁰⁴ calls for a “*more holistic approach to land governance at EU level*” and clearly refers to the Tenure Guidelines (see Box 9) as a highly relevant governance instrument “*in the interest of developing a clear EU guiding principle for the structure of farming.*” 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. And while respecting the principle of subsidiarity and the rights of individual Member States, good land governance recognises the interrelationship between land markets in different Member States and the need for coherent policies or policy goals at the level of the Union.

Today, in the context of the European Green Deal, with Europe aiming to be climate neutral by 2050, agricultural land preservation and access to land for genuine agroecological peasant farming become essential. **Given the vast number of issues of the EU competence and of shared competence in between the EU and the Member States that are affecting land tenure,** and in particular in the context of food security, land market regulation, land use, environmental policies and legislation policies, **it is time for the EU to address all those several elements coherently.** In a few words it is time to act and to develop a clear EU framework for responsible governance of tenure of land and to promote secure and fair tenure rights for peasant farming and agroecology in Europe.



BOX 9

International instruments and land policy

Declarations and Guidelines from the United Nations (UN) and international bodies are important tools for understanding customary international law and human rights norms. While these instruments are not “binding” – there is no international body tasked with enforcing them, and no fixed sanctions attached to non-compliance – they have substantial moral force as expressions of the current and evolving consensus of the international community of states, and can form the basis of future customary international law.

- ▶ The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP); 2018
- ▶ General Recommendation No. 34 on the Rights of Rural Women, by the UN Committee on the Elimination of Discrimination Against Women (CEDAW GR 34); 2016
- ▶ The FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries (SSF Guidelines); 2014
- ▶ The CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (Tenure Guidelines or VGGT); 2012
- ▶ The UN Declaration on the Rights of Indigenous Peoples (UNDRIP); 2007

Two of these instruments are especially crucial:

The Voluntary Guidelines on the Tenure of Land, Fisheries, and Forests with respect to Food Security, henceforth the Tenure Guidelines (TGs)

The Tenure Guidelines is the first international instrument to deal with the governance of land and natural resources from a human rights perspective. They were endorsed by the Committee on World Food Security (CFS) in May 2012 after a three-year participatory process with small-scale food producers, indigenous peoples’ organisations, and civil society participating actively in their development. The TGs include an explicit emphasis on the rights of vulnerable and marginalised people, and are designed to be used not only by states but by civil society actors and others to assess tenure governance, identify improvements and apply them. The TGs highlight the need to take into account existing power imbalances in all consultation and policy-development processes. Around the world including in Europe communities are using the TGs to fight for human-rights based land and resource governance.¹⁰⁵

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)

UNDROP was adopted by the UN General Assembly in December 2018. It recognises, for the first time, a right to land for peasants, which is collective as well as individual, and holistically understood. UNDROP also recognises rights to seed, livelihoods, water, and democratic processes, and includes special reference to the rights of women and youth. The process of developing UNDROP was initiated by the global peasant movement La Via Campesina, and peasants, small-scale farmers, fishers, and indigenous peoples played an active role in the creation and negotiation of the Declaration.

Conclusions and recommendations

4.1 Farmland in Europe and ongoing policy initiatives

4.1.1 European Green Deal & Farm to Fork Strategy: an opportunity for small-scale peasant farmers and younger generations?

The EC's proposed EGD¹⁰⁶ aims to make the EU economy sustainable, and to make Europe the first climate-neutral continent by 2050. The F2F Strategy¹⁰⁷ recognises the central role of food systems in society and seeks to make the transition to a robust and resilient European food system. It maps a new, sustainable and inclusive growth strategy to boost the economy, improve people's health and quality of life, care for nature, while leaving no one behind. This should represent a move away from EU agricultural policies based around increased competitiveness and productivity, and which treat yield per hectare the main measure of successful agricultural production. However, in order to achieve this shift, the EU must bridge significant gaps between the objectives they have set out and the measures so far identified to reach these objectives.

The lack of specific focus on land within the F2F Strategy itself is a missed opportunity to tackle agricultural sustainability in a holistic manner. Ideally, the F2F Strategy would have addressed EP recommendations set out in the INI report, including recommendations that were previously omitted in the EC's response¹⁰⁸ and which food producers' organisations, CSOs, NGOs and academics have continued to insist are key for the future of farming.¹⁰⁹ **A high-level task force - with meaningful involvement of all groups of actors affected - to analyse the risks that land concentration poses for food supply, employment, the environment, soil quality and rural development**¹¹⁰ seems a particularly fitting tool for the implementation of the F2F Strategy, for example. In the same way, a **mechanism to provide clear EU guiding principles on the structure of farming**,¹¹¹ in the form of a land directive, would facilitate access to land for new small and medium farmers (especially young people and those interested in farming agroecologically),¹¹² protect the soil and prevent artificialisation of the land. **More comprehensive criteria for land market regulation measures, including the regulation of share purchases**,¹¹³ would help to limit the influence of investment funds which currently undermines access to land.

These principles are further developed below and can still be implemented, but their lack of inclusion in the F2F Strategy is regrettable. By omitting to fully address these considerations, the F2F Strategy fell short of translating the EGD goals into action, and missed the opportunity to give a much-needed message that paradigm shift is happening in European agriculture. This is despite

widespread recognition that agroecology and organic farming are important ways to reach the overarching F2F Strategy-targets related to reduction of pesticides, fertilisers and antimicrobials, and reversing biodiversity loss, as well as the broader EGD goals of reducing greenhouse gas emissions and resource use.¹¹⁴

Successful implementation of the F2F Strategy will also depend heavily on the coherence of related policies, such as trade policy and the CAP (see below). The continued **negotiation of unsustainable Free Trade Agreements and emphasis on export-oriented trade undermines the EGD and F2F Strategy**. These policies drive production and supply chains that often do not comply with EU regulations or climate commitments, lead to lower incomes for EU farmers, and have significant negative impacts on local farmers in third countries. EU and, above all, local farms will be key to achieving food security, rather than food imports. Imported and exported products must be sold at **prices which cover production costs in the country of origin and final destination**.



BOX 10

EU F2F Strategy: Collective response from scholar-activists¹¹⁵

In June 2020, scholar-activists committed to supporting sustainable food system transformation in Europe recognised the importance of the F2F Strategy but raised a number of concerns about it:

The F2F Strategy fails to recognise that there are various food systems and production models in Europe and that many environmental and health concerns are essentially linked to the industrial food system. It also fails to pay enough attention to the potential of agroecology, farm renewal, access to land and extensive/pastoral livestock farming. These omissions restrict the F2F Strategy's ability to adequately support small-scale producers and peasant agriculture.

The F2F Strategy supports job creation in the food and agriculture sector without clearly defining the types of jobs that will be created and for whom. It should ensure gender equity, secure and dignified working conditions and living wages.

For food production to happen closer to cities, and for a broader cultural and social engagement with sustainable farming, the F2F Strategy should acknowledge both the role of cities in the governance of natural resources and their responsibility to support and enable transition through dedicated policies.

The F2F Strategy does not pay enough attention to the multiple structural constraints that often define consumers' ability to choose. Access to affordable sustainable, healthy and culturally appropriate food for everyone, and a healthy food environment, should be the objectives.

The F2F is framed as overtly technical, thereby not only overlooking social innovation, but also social science and humanities research. These are crucial in the endeavour to understand and drive the complex social transformations necessary to achieve just and sustainable food systems.

4.1.2 CAP reform: will the future CAP facilitate land access?

The EC sees its current proposal for a new CAP as compatible with the aims formulated in the EGD and the F2F Strategy.¹¹⁶ However, **for the bulk of EU producers, the CAP has fallen short of delivering fair income and equitable access to support**, failing to sufficiently support small and medium and young farmers or to deliver on environmental and climate objectives. Small-scale agriculture remains the backbone of European food and farming systems and is where EU agricultural subsidies are most needed, yet CAP support largely ends up concentrated in the hands of large enterprises.¹¹⁷ It is clear that the CAP has to undergo a radical reform, going from an export-oriented policy framework that drives industrialisation and intensification, to one that focuses on crisis-resilient small and medium farming, as well as environmentally friendly farming practices.

Fairer subsidies and income

Ensuring a viable, equitable and sustainable future for EU agriculture and food systems will require limiting subsidies linked to farm area, as this directly fosters land concentration. **The CAP must redirect basic payments based on the farm's size in hectares to prioritise small and medium-sized farms, as well as young farmers and new entrants**, with payments being conditional on the delivery of positive environmental and social outcomes, including the number of farmers employed. To this end, annual direct payments should be capped at €60,000 per beneficiary and there should be a progressive reduction of payments for large farms until the system of untargeted area-based payments is completely changed. Redistribution of subsidies¹¹⁸ to give smaller producers more support for the first hectares should be compulsory for Member States. The CAP needs to take positive measures to protect these valuable and vulnerable actors from the effects of rampant speculation and land concentration, including by reversing the decision of the previous COMAGRI to limit aid available through the small farmers scheme to a maximum of €1,250 per beneficiary. Specific, additional, mandatory CAP support for small farmers should be given to ensure the long-term viability of these farms.

Fair income is also a major challenge for farmers, with their average income (including CAP aid) being roughly 50% of that of other EU citizens. Long-term reliance on CAP payments is also unsustainable and unattractive.¹¹⁹ **Thus, it is necessary to strengthen the common organisation of markets** (i.e. the tools for regulating production volumes, crisis management, etc.) so that farmers are less impacted by market fluctuations and falling prices. This will also reduce the relocation of food production to other countries, avoiding the serious health, environmental and social consequences that this generates in those countries and in the EU itself. In turn, farmers and consumers would be brought closer together, relocating food consumption, prioritising the needs of farmers and citizens, and supporting regional and territorial markets.

Environmental measures

The newly introduced eco-schemes under the first pillar could have some benefits for preserving and securing land for agroecological management, and should provide the opportunity to reallocate

EU funds to finance environmental and climate measures. However, proper implementation will be key to ensuring that we move towards environmentally friendly, sustainable production systems, such as agroecology,¹²⁰ rather than rewarding isolated green practices chosen from a list and used within unsustainable industrialised systems.

Eco-schemes risk taking budget away from other existing and potentially superior instruments and are voluntary for farmers. **They are also at risk due to the strong political pressure from big farmers' organisations to maintain the status quo distribution of payments**, which means that substantial, additional environmental benefits are not guaranteed. Furthermore, eco-schemes will take the form of an annual payment per eligible hectare.¹²¹ At present, many European farms are just too small to access CAP payments, highlighting the orientation of the CAP - including its eco-schemes - to industrial farming. This orientation is driving land concentration and excluding small and peasant food producers who will be key in achieving the goals of the F2F Strategy. Small farms should not be excluded from direct aid eligibility, but should be prioritised due to the social and ecosystem services they deliver.

Finally, the list of potential agricultural practices eco-schemes could support¹²² tools like precision farming alongside organic and agroecological farming.¹²³ The former could imply a double funding risk, as a farmer could receive support for nutrient management through eco-schemes or through Farm Advisory Services. Furthermore, support for precision farming - a set of tools rather than an objective - is unlikely to support transition or empower small-scale, innovative farmers. Instead this is likely to help farms whose characteristics (size, crop, animal, farmer's age, financial resources and capacity) are already primed for this type of production. Many of the tools that are key to digital agriculture use finite minerals, whose extraction is associated with significant emissions. Digital and precision agriculture are solutions for optimising the agroindustrial model of production, which would accelerate the adoption by farmers of machinery, fertilisers, pesticides and nutrients (and dependence on suppliers of these). These solutions only partially address environmental damage¹²⁴ and their negative consequences may outweigh the positive, especially in comparison with more transformative solutions based on genuine agronomic and societal solutions such as crop diversification, local food supply chains, and use of locally adapted seeds and varieties.

Digital and precision agriculture are solutions for optimising the agroindustrial model of production, which would accelerate the adoption by farmers of machinery, fertilisers, pesticides and nutrients.

New Entrants

The EESC evaluation on CAP and Generational Renewal¹²⁵ identified several challenges for young farmers and new entrants. The biggest obstacle for young farmers is still the availability of land to buy or rent, as explored in Chapter 3.2 above.¹²⁶ In the reformed CAP, however, access to land through the market remains the only tool foreseen to build new farms or support smaller ones. Thus, many of the important tools discussed above, from making community land available to young farmers (see Box 5) to developing policies to curb land speculation (see Section 3.1.1), are

not envisioned as part of the CAP despite their obvious relevance to EU agriculture and the nine CAP objectives.¹²⁷ Similarly, social innovations to support new entrants and access to land (e.g. CSAs, new ways of reducing waste, farm incubators, community farmland trusts), pre-emption rights for agroecological farmers, the creation of a Land Observatory, real greening of the CAP and gender equality in agriculture could all be better facilitated through more equitable distribution of CAP spending.

High debt loads due to land prices may also undermine the effectiveness of CAP payments.¹²⁸ If a young farmers' payment under the first pillar of the CAP, which gives additional aid for the first five years, was **allocated per asset and per the hectare**, this would be a first step in the right direction. Many young farmers are currently denied this payment due to the low budget allocation for this scheme by the Member States and the resulting lack of resources.¹²⁹ **Second pillar funding should be increased to give targeted support for young farmers** and new entrants engaging in small-scale agroecology, including a monthly allowance to allow young farmers to work towards a decent income. Tax advantages should be granted to young farmers and measures should be implemented to enable them to pool production tools, in order to create small local production and processing cooperatives.

Policies must increase intergenerational solidarity, and collective actions in rural areas should be further promoted through CAP instruments such as LEADER,¹³⁰ cooperation measures and investments. As part of a bottom-up and participative development approach, LEADER should encourage and enable small farms and specific groups (e.g. women, young people) to get involved, rather than being limited to mainstream and established entities. Member States must increase their support specifically for young innovative farmers, providing an abundance of initiatives around organic farming (agroforestry, permaculture, micro-farms, etc.). Furthermore a comprehensive overhaul of the financial and bureaucratic burdens¹³¹ placed on small-scale farmers should be undertaken in order to create more accessible, user-friendly and less weighty administrative procedures.

Role of Member States

The reformed CAP will give Member States more responsibility for shaping the implementation of CAP through the National Strategic Plans.¹³² This offers the chance to increase coherence with other national policies that affect generational renewal and access to land. However, it also poses a huge risk of lowering ambitions and continuing business as usual, if not strictly assessed and evaluated by the EC against the aims of the F2F Strategy.

The Commission must only approve National Strategic Plans that desist from promoting industrial farms and overproduction for export, and instead strive to support small and medium farmers and peasant farming models, and include specific provisions for women farmers, mainly based on agroecological practices. Without such a ground-breaking reform, the F2F Strategy will be nothing more than another missed opportunity, at a time where the window for a needed transition is almost closed.

4.1.3 Innovations and digitalisation

Research and innovation (R&I) can, in certain circumstances, support the transition to sustainable, healthy and inclusive food systems and achieving the objectives of the CAP, the EGD and the F2F Strategy.” Food 2030 is the EU R&I policy framework to transform food systems so they deliver co-benefits for nutrition, climate, circularity and communities; and align and leverage public and private R&I investments relevant to strengthen the European Research Area”.¹³³ However, this should follow a holistic and multidisciplinary approach that includes social, economic, cultural, environmental and policy processes. It should seek to make a positive impact on the lives of small-scale food producers, workers and their communities. **It should be based on farmers’ existing innovations, which include agroecological practices and networks, new forms of commoning, and solidarity economy solutions.** Integrated and long-term policies and funding should promote agroecology and bottom-up, territorial-scale food system innovation to address this perspective (see Chapter 2). Digitalisation efforts should first focus on providing rural communities with better infrastructure and services, such as affordable and stable internet and telephone access, to ensure innovation is implemented in a democratic way.

At the EU and FAO level, the term “innovation” is often used to refer to solutions based on principles of “sustainable agricultural intensification,” on the one hand, and to approaches based on “agroecology”, on the other. This usage effaces critical differences between these approaches.¹³⁴ Sustainable agricultural intensification is fundamentally centred on the need to increase productivity. It relies on the use of capital-intensive technologies, in particular digitalisation (e.g. so-called ‘climate-smart agriculture’, ‘precision farming’ and use of big data and blockchain technology). The focus is on creating machines and systems that enable fewer people to work more land surface, which is seen as a silver-bullet solution. **There is little recognition of the environmental, social and economic trade-offs and the impacts of such technologies on rural communities.** Experience has shown¹³⁵ that these technologies reinforce trends towards intensive, large-scale monoculture-based production, increase farmers’ dependence on big industrial agriculture firms, drive rural depopulation, and require high amounts of energy and finite materials to produce and run. They risk jeopardising the capacity of small-scale food producers and their communities to produce and access sufficient, diversified and healthy food in a sustainable environment.

For example, digitalisation, and the capture of an immense mass of data and information that it allows - also in the agricultural field -, is currently in the hands of a handful of transnational enterprises that resist any kind of public control.¹³⁶ In particular, the digitalisation of information specific to genetic resources should be considered as genetic resources and treated as such in accordance with the Convention on Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) standards.¹³⁷ Furthermore, land-related digitalisation processes (digital mapping, digital registries and cadasters, digitised land transactions, etc.) have been shown to have a concrete impact on land governance and the rights of people and communities. They can replicate and amplify existing forms of dispossession, create new forms of exclusion, and foster the acceleration of land grabbing, land concentration, and the industrialisation of agriculture.¹³⁸

Agroecological innovations, technologies and practices, on the other hand, draw on social, economic, political and ecological dimensions and integrate these with the ancestral and customary knowledge and practices of peasants, indigenous peoples and other small-scale food producers. They are technically feasible, affordable, politically, socially and culturally acceptable, locally-adapted and environmentally sound. Farmers can also reflect and work collectively to reach technical sovereignty, and autonomy through mutual aid and the reappropriation of knowledge and know-how.¹³⁹

Thus, while technology and innovation are critical to food system transformation, much depends on the way that technology and digitalisation is understood and implemented. As the EU strongly pushes for digitalisation in the farming sector, it needs to ensure that this does not come at the risk of further loss of autonomy, loss of data control, increased debts and lower income for small farmers. **Farmers should be recognised as producers of technology and not just users.** Innovation must be in the best interests of food producers and consumers, not driven by corporate interests.

EGD proposals and the F2F Strategy in particular must critically assess the possibilities and risks of technological development, and identify clear criteria for how technology could genuinely support rural livelihoods and sustainable food systems, and embrace innovations developed and proposed by small-scale farmers and other rural peoples. There is an urgent need to develop robust participatory processes for assessing technological innovations, allowing the precautionary principle to be reasserted and consistently applied in regard to food and farming systems.

4.1.4 Organic Action Plan

As the F2F Strategy sets the target of 25% of EU agricultural land to be farmed organically by 2030, the Commission is developing an action plan to drive investment and innovation in sustainable farming and boost demand for organic food. However, large or very large farms converting to organic farming will not deliver the kinds of environmental and social benefits that small- and medium-scale organic farms provide. Small and medium farms must therefore be the core focus on the Organic Action Plan. In addition, territorial objectives must be set so that organic production is well-distributed throughout European countries, helping to relocalise food production. For example, a deadline should be set for each region to reach the target of 25%.

Territorial objectives must be set so that organic production is well-distributed throughout European countries.

It is essential, too, that the Organic Action Plan provides the EU with strong and ambitious policies regarding the transmission of organic farmland and support for young farmers wishing to farm organically. Strong policy measures, including agricultural education and training and, even more crucially, access to land for organic farming must be coordinated at EU level and implemented in each Member State. It would therefore be advisable that the proposed EU Land Observatory (see Section 4.2.3 below) monitors progress towards this goal.

4.2 Taking policy proposals forward: reopening a policy debate and the need for an EU Land Directive

The issue of land has become a hot topic in the EU, but the European political debate remains dominated by a productivist ideology - the idea that the foundation of a better food system is producing more crops with less labour. At the same time, the EC and the Member States conceive the four economic freedoms as the unassailable horizon of European reforms, preventing European policies from effectively addressing land concentration or ambitiously promoting a genuinely just and sustainable food system. The expansion of farms remains an objective of the EU, newcomers' and young farmers' difficulties accessing land are not sufficiently addressed, and the issue of land investments is still only partially addressed by the EC.

The EC asserts that land is a "national issue" over which it has no competence, despite the fact that European policies have numerous land-related consequences. **In fact, on the basis of Art. 50 (2) (e) TFEU, the EU can establish land legislation. Further, CJEU jurisprudence clearly states that land is not like other commodities and that restrictions on free movement are justifiable on the grounds of overriding public interest** (although they must be proportionate), recognising the objective of preventing land speculation and preserving traditional forms of farming as legitimate (See Box 8) .

In this context, the F2F Strategy and the EGD in which it is embedded do not have sufficient weight to influence European policies. We can see this, for example, in the fact that the measures adopted in the CAP reform do not seem to be in line with the ambitions of these strategies, as we have shown above. A paradigm shift is needed in land matters at all levels. This change could be based on existing proposals from civil society.

4.2.1 At local and municipal level

At the local and municipal level, positive change is already being driven by farmers themselves, particularly a new generation of farmers who are interested in regenerative farming practices and agroecology. It is their skills, investment strategies and ingenuity that are put to use in the service of a more human-scale and community-connected agriculture. This can be seen in the proliferation of new farming enterprises and business models that are emerging throughout Europe including cooperative farms, county farms, joint ventures, incubator sites and model farms amongst others. Local authorities have a number of measures that are available to them to encourage this new generation of farmers and new forms of sustainable agriculture including:

- Providing **access to (start-up) capital and rural development grants** to smallholders, agroecological farmers and new entrants. These can flow from educational and training centres, cooperative banks, subsidy regimes, municipal budgets or other forms of sponsorship and stimulus.

- Initiating processes of **participatory land mapping**, such as in the Basque Country in Spain, to identify current land use and distribution patterns to inform plans for land ordinances, zoning, and allocation. These can include criteria for sustainable land use and priority access for particular farmers and farming systems on the basis of job creation, labour protection, environmental management, opportunities for young or women farmers etc.
- Setting up **land trusts and public land banks** that seek to take land out of the market and give it over for sustainable agricultural use on a long-term basis.
- Instituting **legal control mechanisms** that seek to foster greater democratic land control at local level such as the SAFER system in France and the 'community right to buy' provision in Scotland
- Working with **local food policy councils** in order to strengthen territorial markets for small, organic and agroecological farmers. These can include designated spaces for farmers markets in town squares, public procurement and distribution systems, and a variety of supports for market gardening, CSAs, food education etc. that can be articulated in local food strategies.

4.2.2 At national level



At the national level, land policy can frame a host of legislative actions to support access to land for agroecology. This includes, most importantly, the development of a national land policy, but extends beyond this to include rural affairs, sustainable development, fiscal policy, environmental management and other domains. More specifically, states can:

- Enact **land reform**. The experience of the 2016 Scottish Land Reform Act shows that land reform in the European context is not off the table, especially when high degrees of land inequality and other structural barriers to land access are observed.
- Increase **protections for tenants**. Given increasing land prices through much of Europe, many farmers access land through tenancy arrangements. Measures to increase the rights and protections enjoyed by tenants, such as through tax incentives as in the case of Wallonia, Belgium, or through rent controls, pre-emption rights, and the granting of long-term leases to provide tenure security can all help tenant farmers gain and maintain access to land.
- Beyond land reform, there are a number of measures states can take to encourage the emergence of **healthy agrarian structures**. For example in France, the law on the 'control of agrarian structures' brings much needed oversight to land transfers. Any such measures should be periodically reviewed to include honest assessment of their weaknesses and loopholes. This includes adapting them to the realities of global finance in which control

over land is increasingly exercised through the transfer of shares in agricultural companies.

- To prevent land speculation, **land value taxes** can be considered. These can discourage land hoarding, absentee land ownership, or land being left vacant or idle.
- To prevent land concentration, **anti-monopoly and financial disclosure regulations** can come into force in order to curtail aggressive land accumulation strategies by corporate entities and investors. While rarely used to date in the case of land, recent experiences such as the case of the bankruptcy of Germany's largest agricultural holding company, KTG Agrar, have brought new focus to this subject.
- To prevent land grabbing, a number of anti-corruption and anti-fraud measures should be promulgated such as in Hungary where the use of so-called 'pocket contracts' was penalised through an updated version of the country's criminal code.

4.2.3 At European level



The EP, in its Own-Initiative Report on the state of concentration of agricultural land in the EU, also made recommendations that provide a clear basis for the development of a European land governance framework.¹⁴⁰ These proposals seem adequate to the task of preventing land grabbing by large corporations, curbing land concentration and facilitating access to land for small farmers and new entrants to the agricultural sector.

A European Land Observatory

The EP's first demand, which we support, concerns the **creation of a European Land Observatory** (see EU Soil Observatory¹⁴¹) to monitor land transactions – including the impact of “share deals” – in the EU and effectively measure the level of concentration of agricultural land.¹⁴² Its main tasks would be to record land prices and rents; study the market behaviour of landowners and tenants; identify changes in land use and loss of agricultural land; and assess trends in soil fertility and land erosion.

The EU Land Observatory would thus act as an official public and reference body for the collection of sound, harmonised and legitimate data on land. It could be hosted by the EC which would play a technical role, contribute to the collection of relevant data provided by Member States and publish regular, public and easily accessible reports. This will help to make it a socially and politically relevant tool. In addition, an advisory board including representatives of producers and the agricultural sector could participate in defining the mandate, priorities and evaluation of the Observatory data. In its composition, priority should be given to organisations of smallholder farmers, who are most affected by land concentration in the EU.

Such an Observatory should allow full recognition of the reality of land grabbing and land concentration by all EU institutions and Member States. It could also function as an alert system

by signalling significant - and sometimes alarming - trends related to land tenure in the EU. These trends should moreover be submitted to the EP and Member States for discussion in order to improve land governance in the EU.

A high-level task force or permanent civil dialogue initiative between DG AGRI, DG FISMA¹⁴³ and representatives of the categories most affected by the impact of land-use changes would be a valuable addition to the Observatory. The objective of such a body would be to provide an independent and comprehensive assessment on the impact of policies and inform future policy-making. This task force should recognise different types of expertise, including traditional knowledge, and peer reviewed academic natural and social science. It should be led by a steering committee to which civil society organisations and peasants' organisations can propose their own experts. An independent task team would carry out work identified by the steering committee and consult different experts, researchers and organisations of their choice on the topic.¹⁴⁴

An EU Land Directive

As mentioned in Section 3.2.2, the EC did not adequately respond to the EP's request for greater guidance on how to regulate agricultural land markets in conformity with EU law. The EC has limited itself to recalling how states can legislate in accordance with the four economic freedoms, implying that the preservation of principles such as freedom of investment remains more important than the preservation of agricultural land and sustainable rural livelihoods. This confirmation of the EC's inaction will - in the long term - only increase conflict over land use both within the Member States and between the Member States and the European institutions.¹⁴⁵

For example, the EC's Interpretative Communication of 18 October 2017 (see Box 8) addresses only one specific aspect of land acquisition - cross-border investment in agricultural land. This is only part of the problem since land concentration is mostly a domestic issue in Member States. This focus suggests that the predominance of economic freedoms makes it impossible to question the nature of investments and their implications for the functioning of agrarian systems, employment, agricultural biodiversity or the well-being of consumers.

Moreover, the Commission's Communication does not resolve the conflicts between the different legal frameworks existing in the EU. Currently, the constitutions of several Member States specifically regulate and protect the use of agricultural land while others do not. In legal terms, this makes the need to protect agricultural land more important than the free movement of capital and even the freedom of establishment in these countries, creating a permanent conflict between the constitutional legal framework of some countries and the European normative framework. It seems, therefore, that there is a critical legal gap in land matters, linked to the lack of clear EU-level public policy objectives on land, which must be resolved.

EU land policy needs a coherent, effective and transparent legislative framework valid in all Member States.

We therefore reiterate the EP's call for a review of land governance across the EU and for clear public policy objectives on land. EU land policy needs a coherent, effective and transparent legislative framework valid in all Member States. It should contain clear obligations and restrictions

that can influence EU sectoral policies as well as land governance in Member States. This general framework could take the form of a directive. This would allow the coordination of Member States' action on agricultural land protection and the adaptation of general principles and structures for land protection and sustainable land use in accordance with the principle of subsidiarity.

Legal bases already exist to do this. We can cite the Water Directive which, in 2000, created a framework for community management of this resource, considering it to be a common heritage and not just another commodity.¹⁴⁶ Although this directive has not been fully implemented in the Member States, it has nonetheless made it possible to improve water governance in Eastern European countries, particularly in the Danube basin. A directive provides a legal basis for local communities to influence their national governments. A directive for land governance could therefore be an important legal tool for those fighting for the protection of land in the EU.

A European framework for land tenure should also be developed and implemented in full compliance with the Tenure Guidelines and the UNDROP (see Box 9). These Guidelines, endorsed by the EU in 2012, clarify that states should regulate tenure in line with principles that are more favourable to agroecology, while protecting the land and human rights of small farmers and communities in the context of land investments. In theory, the EU and the Member States cannot ignore or undermine these standards when defining or implementing texts and policies. The UNDROP, adopted in 2018, represents the development of international legal norms and reflects the commitment of states to respect and protect the rights of peasants and other people living in rural areas. A directive should therefore call on Member States to fully implement these Guidelines, while leaving them the responsibility for how to do so at the national level, involving small farmers' organisations in this process.

Furthermore, a directive should prioritise the use of land for food, not for agrofuel production, commercial or energy uses, extractive industries, leisure industry or unnecessary mega-projects. Overall, access to land, especially under-utilised land, should be given preferentially to those who cultivate - or want to cultivate - it in a socially and ecologically acceptable way, as well as to the younger generations of farmers. Key considerations include:

- The **integration of gender equity and balance** (in age composition, social status, educational levels, employment and other economic opportunities, and participation in decision-making) in rural areas should be an obligation **in the design and implementation of rural development strategies, programmes and projects**.¹⁴⁷ A higher percentage of women has been identified and given visibility as new entrant farmers and involved in agroecological systems, than in conventional farming systems, but progress still remains to be made.
- Embedding a model of land stewardship, food sovereignty, and agroecological farming within the **European Green Deal and F2F Strategy**, understanding that this is an important pillar of any serious strategy for combating climate change and building a resilient food system.
- Driving forward the commitment to sustainability encapsulated by the EGD and F2F Strategy

within the current proposals for the new **Common Agricultural Policy**. This could be done, for example, by orienting the newly introduced eco-schemes towards direct support for sustainable farming practices and closely scrutinising the National Strategic Plans of states according to a set of clear criteria that prioritise support for small and medium farmers, peasant agroecology, women farmers, and aspiring farmers/new entrants.

The paradigm shift that we are calling for embraces a social approach to land and must put human rights and agroecology at the centre. For peasants and other small-scale food producers, and the food sovereignty movement, land is not simply a commodity that can be traded in a market. Land is a virtually non-renewable resource which forms the basis of people's livelihoods, territories, cultures, traditions and interactions with nature and the environment. It is also the basis of peasants' lives, a natural resource whose value is not only monetary, but cultural. Continuing to treat land as a commodity or a financial product is endangering agrarian societies that risk being traded just like the land on which they take root.

Meanwhile, a thriving ecosystem of policy alternatives is taking root across Europe. From the level of individual farmers and community-level innovations, to local authorities and regional projects to nourish resilient and sustainable food systems built around small-scale agroecological farms, to an ever-growing number of proposals for genuine transformation at the national and EU level, policy-makers across Europe have the power and the opportunity to support a new and transformative vision.



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Glossary

Agroecology: As a science, agroecology is: (i) the holistic study of the ecology of the entire food system (ii) the use of the principles and tools of ecology to design more sustainable food systems; (iii) the integration of research, education, action and change for ecological, economic and social sustainability.

Agroecological practices harness and regenerate natural systems and processes to build more sustainable and productive agro-ecosystems.

As a social movement, agroecology aims to transform the industrial food system and build food systems that strengthen the economic viability of rural areas based on short food supply chains, and fair and safe food production. It supports diverse smallholder food production, rural communities, food sovereignty, local knowledge, social justice, local identity and culture, and indigenous rights.¹⁴⁸

Commons: By approaching land as a commons, the authors of the report refer to the idea that land is a natural resource, accessible to all members of society, to be managed for the common good, although the definition of commons is complex.¹⁴⁹ As explained throughout the report and in light of the climate crisis, small-scale peasant farmers, in collaboration with local communities, are best placed to lead the way on defining 'common good' in terms of farmland use. Land in some countries is legally defined common land, that is owned by one or multiple individuals, but over which others have legal common rights, such as allowing livestock to graze, or other farming activities.

Community Supported Agriculture (CSA): CSA is a direct partnership between a group of consumers and producer(s) whereby the risks, responsibilities and rewards of farming activities are shared through long-term binding agreements. Generally operating on a small and local scale, CSAs aim at providing quality food produced in an agroecological way. One of the core principles of CSA is the prepayment for the shares bought by the members, as a way to support the producer(s) and to offer them a guaranteed income for the whole season.¹⁵⁰

Generational Renewal: the process by which new farmers enter farming, and in which farmers who wish to retire have decent and dignified options to do so. Generational renewal can refer to young farmers, who may or may not be themselves children of farmers, entering the agricultural sector. It can also refer to migrants, whether cross-border or from nearby urban areas, who take up farm livelihoods. Generational renewal involves both farm management and farm labour, so that there are pathways in place for workers to process to owning or managing their own farms where they desire to do so.

Small-scale farming and peasant farming: For brevity, small-scale farming and peasant farming have both been used in the report to describe the authors' vision

of agroecological farming systems that are rooted in food sovereignty and respect the environment, and the social and human rights of all the individuals involved in the food system, particularly those laid out in the UN Declaration on the Rights of Peasants and other people working in rural areas.

Financialisation: Financialisation refers to the process through which the real economy is subordinated to the financial economy, or to the increasing penetration of financial capital into everyday life. Through financialisation, more and more areas of peoples' lives become linked to (often international) investments, often through the medium of sophisticated financial instruments.^{151 152} The financialisation of land sees lands as a financial asset, de-linking it from its productive and communal purposes, and accelerating processes of land acquisition. It has played a decisive role in both land grabbing and land concentration across the continent, exacerbated by the financial gain offered by hectare-based, decoupled CAP subsidies.

Land grabbing: Land grabbing is the control – whether through ownership, lease, concession, contracts, quotas, or general power – of larger than locally-typical amounts of land by any persons or entities –public or private, foreign or domestic –via any means –'legal' or 'illegal' –for purposes of speculation, extraction, resource control or commodification at the expense of peasant farmers, agroecology, land stewardship, food sovereignty and human rights.¹⁵³

Land concentration: Land concentration describes the concentration of large areas of land in the hands of fewer, increasingly powerful actors. A long-term and widespread trend in the EU, it is currently occurring at an alarming rate, undermining rural livelihoods and healthy, sustainable food systems. The concentration of land has been increased by the concentration of Common Agricultural Policy (CAP) subsidies in the hands of ever fewer and bigger land holdings.¹⁵⁴ Current area-based payments benefit large commodity producers, driving up land prices,¹⁵⁵ encouraging land concentration and making it harder for new entrants to access land.¹⁵⁶

Land artificialisation: The conversion of agricultural land to non-agricultural uses, which can allow speculators to reap extraordinary profits. This process is shrinking Europe's farmland: almost half of land taken in recent years – primarily for urban development – has come at the expense of arable farmland and permanent crops.¹⁵⁷

Food Sovereignty vs Food Security: Food Security, on the other hand, is defined as the means that all people, at all times, have physical, social, and economic access to sufficient, safe, and nutritious food that meets their food preferences and dietary needs for an active and healthy life.¹⁵⁸ Food Sovereignty ensures the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It is a process that strives for solidarity, not competition, and for building a fairer world from the bottom up.

Endnotes

1. For the purposes of this report, the terms small-scale farmers, peasant farmers, and small-scale peasant farmers will be used interchangeably. Please see the glossary for a definition of these terms.
2. Please consult the Glossary at the end of the text for terms in purple.
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5. The number of small and medium-sized farms has decreased, while the number of large farms (over 100 hectares) has increased. Between 2003 and 2015, 4.2 million farms disappeared across the EU, 85% of which were small farms of under 5ha. Source: Eurostat (2018) *Farms and farmland in the European Union - statistics*. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Farms_and_farmland_in_the_European_Union_-_statistics#The_evolution_of_farms_and_farmland_from_2005_to_2016
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 36. For more in depth information on many case studies in this section please see: Nyéléni ECA (2020), *op. cit.*; AEIAR (2016) *Status of agricultural land market regulation in Europe: Policies and instruments*. Brussels. Available at: http://www.aeiar.eu/wp-content/uploads/2016/04/Land-market-regulation_policies-and-instruments-v-def2.pdf.
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 38. Under the French cadastre for example, it is possible to publicly access graphical plans of land parcels' boundaries. However, this system does not provide details on ownership, preventing effective monitoring of ownership concentration. In comparison, the Irish Land Registry and Deeds system provides this information, enabling a better overview of landholding patterns.
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 48. *Ibid*.
 49. When Eastern European countries joined the EU in the 2000s, there were significant differences in land prices with Western countries. To avoid the dramatic acquisition of large swathes of land by foreign investors at the time, the EU allowed a transition period during which laws restricting non-domestic land ownership could be retained, despite curtailing the free movement of capital.
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 57. In Germany, for example, sales can be rejected where they would "lead to poor distribution of the land" (usually considered to be the case when sale is to a non-farmer, or where the sale price exceeds the normal market rate by more than 50% (20% in Baden-Württemberg). For additional details see AEIAR (2016), *op. cit*.
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 59. For a comprehensive account see: Access to Land Network (2017) *Local authorities' role to secure access to land for farmers*. Available at: <https://www.accesstoland.eu/Local-authorities-role-to-secure-access-to-land-for-farmers>. For additional case studies and examples, see Nyéléni ECA (2020), *op. cit*.
 60. See also the Land Rights and Responsibilities statement contained within the Land Reform (Scotland) Act 2016: <https://www.legislation.gov.uk/asp/2016/18/section/1/enacted>.
 61. The Community Empowerment (Scotland) Act 2015 shall help to empower community bodies through the ownership or control of land and buildings, and by strengthening their voices in decisions about public services. See Scottish Government (2017) *Community Empowerment (Scotland) Act: summary*. Available at: [https://www.gov.scot/publications/community-empowerment-scotland-act-summary/#:~:text=The%20Community%20Empowerment%20\(Scotland\)%20Act,in%20decisions%20about%20public%20services.&text=The%20Bill%20was%20passed%20by%20the%20Scottish%20Parliament%20on%2017%20June%202015](https://www.gov.scot/publications/community-empowerment-scotland-act-summary/#:~:text=The%20Community%20Empowerment%20(Scotland)%20Act,in%20decisions%20about%20public%20services.&text=The%20Bill%20was%20passed%20by%20the%20Scottish%20Parliament%20on%2017%20June%202015).
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 70. Nyéléni ECA (2020), *op. cit.* - pp. 97-99.
 71. Backes, S. et al. (2018), *op. cit*.
 72. Causse Aigoual Cévennes (n/a) *Le pacte pastoral : maintenons les activités et l'identité pastorales du territoire !* Available at: <https://caussesaignoualcevennes.fr/competences/pacte-pastoral/>.
 73. Sutcliffe, L., Paulini, I., Jones, G., Marggraf, R., and Page, N. (2013) *Pastoral commons use in Romania and the role of the Common Agricultural Policy*. *International Journal of the Commons*, 7(1); See also: Mantescu, L (2009) *When Globalization Meets Postsocialism- Community-based Institutions for Managing Forest Commons and the Internationalization of Timber Market in Romania*. 2009.
 74. Nyéléni ECA (2020), *op. cit.*, p.56.
 75. The Access to land network brings together grassroots organisations from across Europe to share experiences and promote the significance of access to land for

- agroecological transition and generational renewal. Established in 2012, it functions as an informal network of about 15 organisations. <https://www.accesstoland.eu/-Our-network>
76. Hands on the Land (2016), *op. cit.*
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 80. IPES Food (2019), *op. cit.*
 81. This distribution pattern was particularly clear in Romania, the Member State with the highest number of farms; nine in every ten farms (91.8 % or 3.1 million farms) were smaller than 5 ha, but the 0.5% of farms of 50 ha or more in size farmed one half (51.1 %) of all the UAA in the country. In addition, 2.9 % of EU farms were responsible for a majority (55.6%) of the EU's total agricultural economic output; these farms can be characterised as being large agricultural enterprises. Source: Eurostat (2018) *Farms and farmland in the European Union - statistics*. *Op. cit.*
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 83. Eurostat (2018) *Agriculture, forestry and fishery statistics*. Statistical books. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Agriculture,_forestry_and_fishery_statistics
 84. See the case of Bulgaria, where only 3 years after the introduction of this scheme, the largest farms were already occupying 82% of national agricultural land. in Valkanov, N. (2013) "Application of the Single Area Payments Scheme in Bulgaria: Analysis of the Effects." *Institute for Market Economics*: 1-18.. See also: Pour une autre PAC (2019). *Atlas of the CAP. Chiffres et enjeux de la Politique Agricole Commune*. Pour une autre PAC et Heinrich-Böll-Stiftung. Paris. Available at: https://fr.boell.org/sites/default/files/atlasdelapac2019_ii_web_190307.pdf.
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 86. This table is not exhaustive but illustrative of the multifaceted nature of the current state of land governance and regulatory measures in the EU today.
 87. Agriculture and Rural Development (no date) CAP Specific Objectives Explained... Brief 7: Structural Change and Generational Renewal https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key_policies/documents/cap-briefs-7-structural-change_en.pdf
 88. Pour une autre PAC (2019) *Atlas of the CAP. Chiffres et enjeux de la Politique Agricole Commune*. *Op. cit.*
 89. Matthews, A. (2018) *The redistributive payment is more effective at redistribution*. CAP Reform EU. Available at: <https://euagricpolicy.wordpress.com/2018/09/04/the-redistributive-payment-is-more-effective-at-redistribution/>.
 90. See European Commission (2020) *Future of the Common Agricultural Policy*. Available at: https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/future-cap_en.
 91. Europa (2012) Consolidated versions of the Treaty on European Union. *op. cit.*
 92. *Ibid.*
 93. See for example the Constitutions of Slovenia (art. 71), Bulgaria (art. 21), Greece (art. 18) and Italy (art. 44).
 94. Official Journal of the European Union (2017) Commission Interpretative Communication on the Acquisition of Farmland and European Union Law (2017/C 350/05). Available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017XC1018\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017XC1018(01)&from=EN).
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 103. See the whole range of experiences around land market regulations from across the Union in part 3.1.1 of this report.
 104. Point 40 in European Parliament (2016/2141(INI)), *op. cit.*
 105. *Ibid.*
 106. Read concrete examples in Nyéleni ECA (2020), *op. cit.*, Chapter 2 Approach 4 *Using the Tenure Guidelines as a tool to strengthen land struggles*.

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112. *Ibid.*
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119. European Commission, Redistributive payment https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key_policies/documents/ds-dp-redistributive-payment_en.pdf
120. Direct payments play a relatively minor role on horticultural farms (7%), vineyards (9%) and pig and poultry farms (gravidores) (22%). However, they account for 70% of the income on 'other grazing livestock' farms (predominantly beef and sheep), 61% on mixed farms and total public transfers represent 101% on milk and 'other grazing livestock' farms. Source: https://ec.europa.eu/agriculture/rica/database/database_en.cfm.
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 140. See for example: <https://www.latelierpaysan.org/>.
 141. European Parliament (2016/2141(INI)), *op.cit.*
 142. See EU Science Hub (n.d.) *EU Soil Observatory - data*. Available at: <https://ec.europa.eu/jrc/en/eu-soil-observatory/data>.
 143. According to a Joint Research Centre report, if the current economic and demographic trends continue, one would expect a growing number of regions to be classified as 'less developed'. "[...] The physical structure has a significant effect on farm profitability, in terms of GVA per holding and per employee: extensive northern EU agriculture (group 1) and the EU continental agriculture (group 2) are characterized by both larger farms and higher profitability indexes, while in semisubsistence agriculture regions (group 5) the micro/small farm size is strongly related to the lowest levels of GVA per holding and per employee [...]". p32 in D'Amico, M., Coppola, A., Chinnici, G., Di Vita, G. and Pappalardo, G. (2013) 'Agricultural systems in the European Union: an analysis of regional differences'. *New Medit*, 2013, vol. 12, no 4, p. 28-34.
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This report identifies critical policies and practices which can be put in place to support access to land for agroecology in Europe. This is a key strategy for building more resilient and democratic food systems, sustainable livelihoods, and flourishing rural and urban communities. Innovative and grassroots proposals must be supported by policy-makers at every level in order to reach their full potential. This report charts a path forward for meeting the actions, skills, and investments of Europe's small-scale and agroecological farmers from below with supportive policies from above.