

Land Grabbing in Romania

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Abstract — This paper aims to raise awareness about land grabbing and its negative impact on EU countries and to find several measures to stop it. The first chapter defines the phenomenon of land grabbing, it presents its history, the factors that determine the occurrence and/or perpetuation of the phenomenon, and the effects. In the second chapter, the paper focuses on case studies of land grabbing in Romania and on the actors and institutions involved. Further on in this chapter, the phenomenon of land grabbing is analysed from the socio-economic, socio-cultural, environmental, and political points of view. The third chapter studies land grabbing from the legal point of view and land law in force in Romania. The last chapter offers several measures to stop this land-grabbing phenomenon. The research ends with the conclusions of the authors.

Keywords: Agricultural land grabbing, policies, efficiency, corruption, effects, land fragmentation, human rights

I. INTRODUCTION

Land Grabbing is a serious problem affecting the environment, the economy, social welfare, and human rights. Although this problem has taken over the entire globe, no definition encompasses it entirely. Generally, the term land grabbing is used to describe the purchase or leasing of large areas of land by both public and private owners. Land grabbing belongs to the category of issues considered relevant to European institutions such as the European Parliament and the European Social and Economic Committee (Boruss, S., MA, R., & BM, S.A., 2015). Most of the time, however, the phenomenon is carried out through existing gaps in national and international policies, so this practice cannot be considered illegal or illegitimate (Boruss, S., MA, R., & BM, S.A., 2015).

1.1. The Concept of Land Grabbing

Land Grabbing can be defined as the phenomenon of large-scale land acquisitions, the purchase or lease of large land areas in developed and especially developing countries by national and transnational companies, foreign governments, and individuals (Boruss et al., 2015).

The term has been used before, but as it is used today, it primarily refers to the rush for large-scale land acquisitions that have taken place since the global food price crisis of 2007-2008. The food price crisis led to a dramatic peak in large-scale agricultural investment, evoking fears of food security in the developed world and causing new economic opportunities for agricultural investors and speculators. Most of these agricultural investments are in the southern part of the world, 70% in sub-Saharan Africa, South-East Asia, and Latin America, have a foreign nature, and take place for crops and biofuel production (Pezzi, 2020).

Initially welcomed as a new path to agricultural development by investors and some developing countries, investments in land have been criticized by many actors of civil society, government, and multinational actors for various negative effects it has had in many cases on local communities (Pezzi, 2020).

The huge profits from Land Grabbing are one of the factors that stimulate the perpetuation of this habit, especially in states with weak governance in the land sector (Boruss et al., 2015).

1.2. A Brief History of Land Grabbing

The phenomenon of Land Grabbing has existed for a long time, beginning with the conflicts between tribes over land ownership and reaching our times, in the form of globalization and economic integration. This tendency to seize as many territories as possible, to have control over land properties, and to have control over subsoil riches has found new ways of operating in the European Union (Constantin et al., 2017).

Firstly, relatively low land prices in the Eastern European Member States (compared to Western Europe) represented a major incentive for investors to acquire agricultural land in these countries (Kay et al., 2015). Agricultural land prices are not regulated by law; they vary, so in 2009 while the nominal price of agricultural land was about 1000 euros in Poland, in France it was five times higher, in Spain it was ten times higher, in Denmark it was twenty-six times higher, and in the Netherlands, it was forty-seven times higher than in Poland (KU Leuven & CEPS, 2013).

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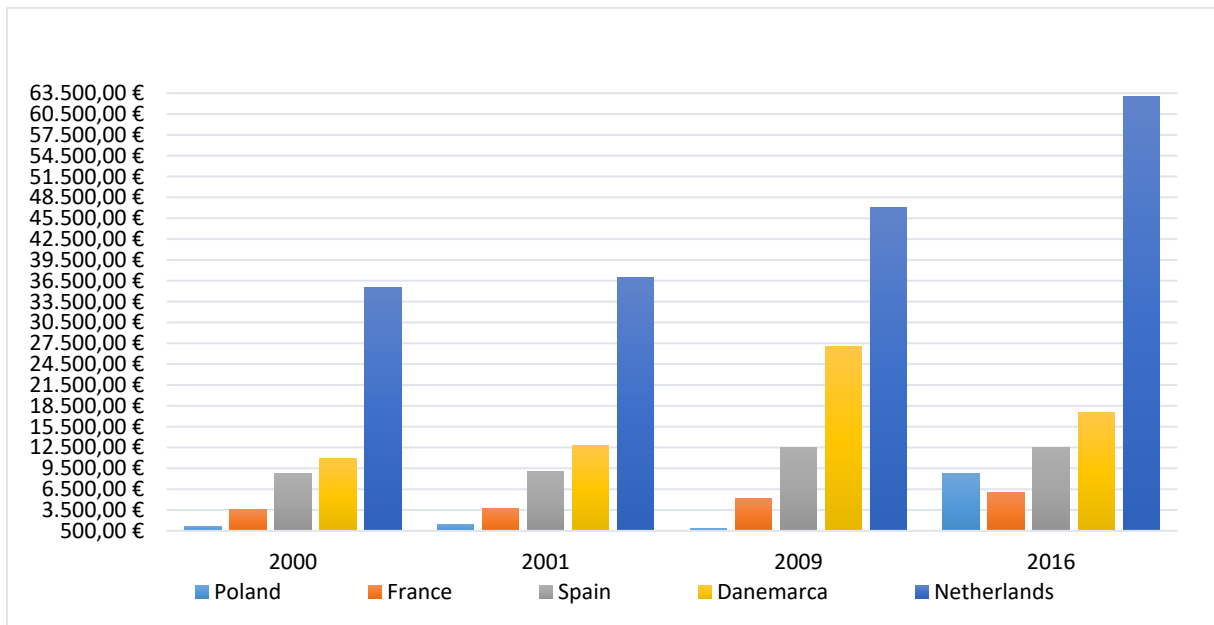


Fig. 1. Agricultural land prices(euro/ha)

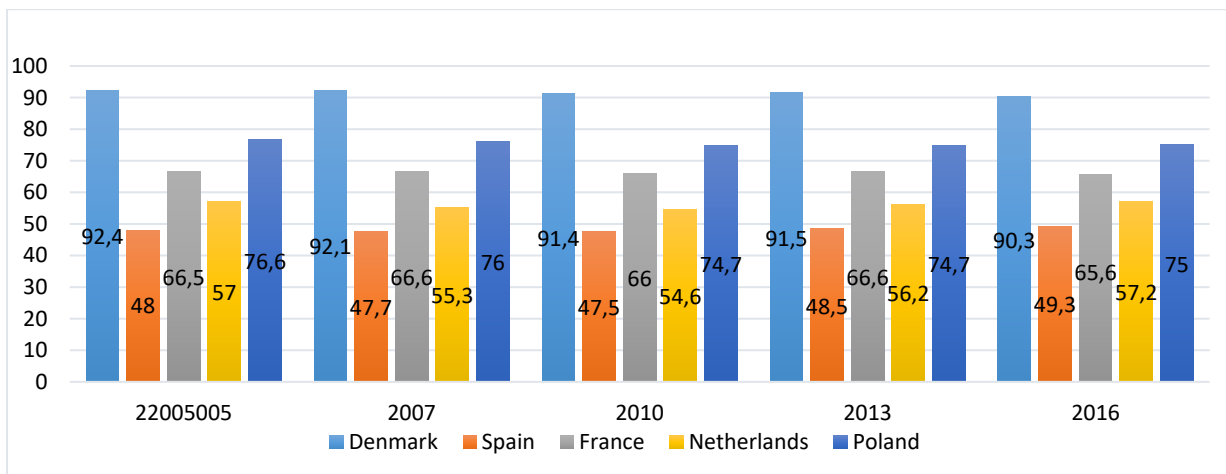


Fig. 2. Percentage of arable land out of total used agricultural area

In Europe, there is a correlation between the (declining) number of agricultural production units and the number of people employed in agriculture. For example, between 2005 and 2010, the number of production units decreased the most in Eastern European countries, especially in the Baltic states (Estonia, Latvia, and Lithuania), and at the same time, the region saw the largest decrease in the demand labour force (8.9% in Bulgaria and Romania and 8.3% in the Baltic states annually).

However, in Ireland and Malta, the number of agricultural enterprises has increased, and implicitly the demand for agricultural workers has also increased (Nurm, K. 2015).

In 2005, in Denmark, 92.4% of the total agricultural area used was arable land. Over the years, the percentage of arable land has been decreasing, in 2016 reaching a value of only 90.3%, which means that the size of the intended land destined for food production in Denmark has been reduced, while the population remains the same. The loss of agricultural land is largely due to land degradation, such as erosion, which

occurs when soil components are moved from one location to another by wind or water. Agricultural land is also being lost as it is converted to other uses such as highways, housing, and factories (Problems in Agriculture: Loss of Land and Decreased Varieties, 2013). In Spain in 2005, a percentage of only 48.0% of the total agricultural area used was arable land, which means that approximately half of the total agricultural area used was not intended for food production, but included pastures, gardens, yards, etc. From 2005 to 2010, this percentage of 48.0% arable land from the total agricultural area used decreased slightly and reaches the value of 47.5% and will increase until the year 2013 to the value of 48.5% and even reach the percentage of 49.3% arable land in 2016.

Therefore, investors will always choose to invest in the agricultural land of those countries that have the most fertile and fruitful soils but at the same time have the lowest purchase price. For example, if in Poland the purchase price of agricultural land is 1000€/hectare and in Denmark, the price of agricultural land of the same type is twenty-six times higher than that in Poland, it is

obvious that an investor would choose to acquire the land in Poland rather than the one in Denmark, according to the principle of efficiency (getting as much as possible with the same resources or getting the same result with as few resources as possible).

Secondly, post-communist land privatization and land restitution programs have not had very good results in many Eastern European countries because they have not brought the desired benefits to the beneficiary investors and especially because small farmers have been discriminated. Discrimination against small farmers is rather a disadvantage due to the transition to the market economy and consists of the fact that they could no longer obtain land or enter the economic sector without having sufficient capital compared to the capital of large companies.

The result of these processes was the emergence of dualistic agrarian structures in which land use is both concentrated and highly fragmented. This paved the way for agricultural land grabbing, as a new class of private landowners with significant capital that can easily outcompete smaller farmers who must compete on economically substandard land (KU Leuven & CEPS, 2013). At times, measures taken to correct this structural dualism and increase the economic competitiveness of small farms have led to continued land grabbing under the guise of "land consolidation" (Kay, 2016).

1.3. Factors that determined land grabbing

Agricultural land and access to water are the basis for food production. The degree of food self-sufficiency of states depends on various factors; a fundamental condition consists in any case of the existence of sufficiently large agricultural areas and the right of states to regulate the ownership and use of agricultural land (Nurm, 2015). The following factors encourage land grabbing (as presented by Nurm (2015)):

- Increasing globalization and the associated principle of free movement of capital;
- Population growth and urbanization;
- The growing demand for food;
- Increasing the demand for bioenergy;
- Growing demand for natural resources (fibers and other wood products);
- The negative side of agricultural and environmental policy;
- The possibility of being able to speculate on food products on the international or at least European market;
- The potential to speculate on the increase in the value of agricultural land and future state aid;
- The efforts of large investors to put the capital released after the financial crisis of 2008 in agricultural land as a safe investment.

Corruption and formal compliance with legal regulations were also factors that contributed to a large extent to the acceleration of the Land Grabbing phenomenon in the states of the Eastern region of the

European Union. Large-scale land acquisitions often take place in developing countries, which are also known to be conducive to corruption caused by weak institutional frameworks (Franco, 2012). According to estimates from the Land Matrix database, these large-scale land acquisitions (committed and intended contracts) amount to 55 million hectares of land bought or leased worldwide between 2000 and 2011, and numbers are growing (Franco, 2012).

To better understand the role of corruption in land transactions, it should be noted that the relationship between corruption and foreign direct investment (FDI) is unclear. On one hand, it can introduce inefficiencies that discourage FDI and ultimately reduce economic activity. On the other hand, corruption can also be supported to stimulate FDI, meaning that "corruption facilitates beneficial exchanges that would not otherwise have occurred. In doing so, it promotes efficiency by allowing individuals in the private sector to correct pre-existing failures of various types of government" (Franco, 2012).

Previous research has shed some light on the factors that govern countries' and corporations' demand for land in foreign countries. In many cases, such investments are resource-seeking, meaning that they involve "investing in a host country market to achieve cost minimization by obtaining resources that are either too expensive to obtain or unavailable in the local market." That is, the objective of many transnational commercial land transactions is to produce and export food crops and biofuels in the home countries of large-scale investors (Borras and Franco 2012) and to gain access to water, and other raw materials (for example minerals, wood). Often, the goal of large-scale land transactions is thus to ensure food security (which may be jeopardized by population growth or dietary changes) or the supply of energy or raw materials important for industrial production.

Given these motivations for foreign investors' partial land acquisitions, it is not surprising that some authors show that the acquisition of foreign land for large-scale agricultural investment is strongly determined by the agro-ecological potential in the target countries of land deals (e.g., in terms of land availability and productivity) (Bujko et al., 2016).

1.4. Effects of land grabbing

The phenomenon of land grabbing brings with it a series of effects and consequences, both positive and negative (Akowuah, 2016) as presented in the following.

1. Positive effects:

- More Jobs are created;
- Economic growth;
- The infrastructure provided by the investing companies;
- Development of communities over time.

2. Negative effects:

- Abuse of human rights;

- Loss of livelihood;
- Flows and pollution of water bodies;
- Environmental degradation.

It is difficult to track and record the exact extent of land grabbing by EU corporations, as many of these transactions remain in institutional gray areas and make it difficult to establish precise categories. A very good example is that situation where a corporation buys goods from companies with a certain reputation abroad, those goods come from land taken from villagers. The closest way to understanding rough measures of land grabbing is to track data through the Land Matrix, a database of land tenure statistics established by the International Land Coalition (ILC) and a consortium of organizations, which is currently the largest land acquisition tracking initiative in the world. A Land Matrix report describes how 83.2 million hectares of agricultural land in developing countries amounting to 1.7% of the global total changed hands, resulting in 1217 major land transactions (Nurm, 2015). In any case, even the Land Matrix is in constant flux. For example, the definition of what constitutes a case of land grabbing has been narrowed, with the effect that many land transactions and the corporations involved are left out so that the true extent of the phenomenon is underrepresented. It is still a useful tool, if its limitations are considered (Borras et al., 2020). Like any of the issues studied and analysed globally, the phenomenon of land grabbing has a starting point, namely the small farmers. Small farmers form the basis of European agriculture, they have some positive effects on the whole community of the European Union. The positive effects produced by small farmers are:

- Strengthens food security - this is possible through the abundant production of healthy food of known origin;
- Support food sovereignty - by building local markets and shorter food chains from producer to consumer that reduce dependence on global markets and vulnerability to price shocks;
- Protects the environment and local biodiversity - by practicing an unconventional, diversified form of agriculture;
- They bring dynamism to rural areas, generating jobs and supporting the life of the rural community based on local cultures and food traditions.

The opinion of the European Social and Economic Committee confirms that small farmers are threatened by the consequences and effects of the problem of land grabbing and land concentration. Agricultural land provides the basis for food production and is therefore the condition for ensuring food security by Article 11 of the United Nations International Covenant on Economic, Social and Cultural Rights and Article 25 of the Universal Declaration of Human Rights (Nurm, 2015).

Land sovereignty is the right of working people to have effective access, use, and control over land and the benefits of its use and occupation, where land is

understood as a resource, territory, and landscape. Land sovereignty is an important aspect that covers several elements, including land grabbing. Land sovereignty is both a call to action against a corporate renewal and a global (trans)national drive to close off the commons and an affirmation of the need to bring the land closer to people; supporting working people and their human right to control the land. Land sovereignty goes beyond viewing land only as a resource and considers land both as territory and as landscapes. It embraces the struggles of indigenous movements, rural workers, urban activists, and social movements in the North and South, who have sometimes been excluded from traditional land reform campaigns. Land sovereignty encompasses a pluralistic understanding of property rights – encompassing community, state, and/or private property rights – privileging the commons and recognizing the importance of state property while confronting the contradictory role of the state in land conflicts. Furthermore, land sovereignty is based on redistributive land reform, aiming to go beyond it by supporting land restitution for people who previously benefited from land reform and whose lands were displaced and dispossessed due to more recent land grabbing and by supporting other policies land whose redistributive content can be shaped by mass struggles (i.e., forest land reallocation policies, community-based forest management, property reform, and housing reform). In addition, land sovereignty connects with popular demand and food sovereignty enabling movements for reciprocal and synergistic interaction between them (Franco, 2012).

II. LAND GRABBING IN ROMANIA

Following Romanian law, in 2011 the rural part of Romania constitutes 87.1% of the country, comprising 47.2% of the population, i.e., 8.98 million inhabitants (out of a total of 20 million inhabitants). According to the definition by the Organization for Economic Cooperation and Development (OECD), 59.8% of Romania is rural, 39.4% is represented by intermediate areas and only 0.8% represents the urban area (Eurostat 2012; Boruss et al., 2015).

At the end of the Second World War, Romania fell into the sphere of influence of the USSR. In a relatively short time (1944-1947), a soviet-inspired communist regime was established. The seizure of power by the communists produced major transformations in Romanian society at that time (multi-parties was banned, the industry was nationalized, and land collectivization began). We will continue to refer to this last event (Bărbulescu et al., 2007). The phenomenon of agricultural collectivization was treated as a fundamental component in the rise of communism. The standardization of society also involved the transformation of village life into an industrial model, much more ideological than economic.

Three main periods can be seen, without being considered absolute time intervals:

1. 1949-1953 - the violent implementation of collectivist structures;
2. 1953-1956 - a slight relaxation of collectivization policy - the tax burden is eased;
3. 1957-1962 - acceleration of collectivization through violent means.

The collectivization campaign was officially initiated together with the plenary session of the Central Committee of the Romanian Workers' Party from March 3-5, 1949 (Lungu, 2008).

Agricultural collectivization had an important place in this strategy, which was like the Soviet model. The land reforms of 1945 were inspired by the Land Decree drawn up by the Bolsheviks in 1917. They considered the attraction of the peasants to the communists and the destruction of the political enemy - that is, the big landowners. These things also happened in Romania, through the agrarian reform of 23rd of March 1945, carried out by the communist government Petru Groza. This government expropriated 1,468,000 ha of which 1,109,000 ha were allocated in complete or complementary lands to 917,000 peasants.

Between 1945 and 1949, through agrarian reform, state agricultural farms and agricultural production cooperatives were formed. State farms are a form of collective farming where management is done by the state, while historically cooperatives have been the main institutional and organizational tool through which independent farmers have been able to resist market power owned by local and transnational traders. They also serve to shorten the supply chain, allowing producers to integrate most or all their processing and marketing processes into one or a few steps, thus enabling substantial savings in transactions and other intermediate costs (Tortia et al., 2013).

In the post-war period, the Romanian state collectivized ("the process of collectivization appears in fact as a real war against the peasantry.

This war was based on the principle of class struggle, through which the party-state tried to break the solidarity of the peasantry, to fundamentally transform the structure social engineering of the rural world and subordinating it to his plans for social engineering.") agricultural land and agricultural labour (CPPADCR, 2006).

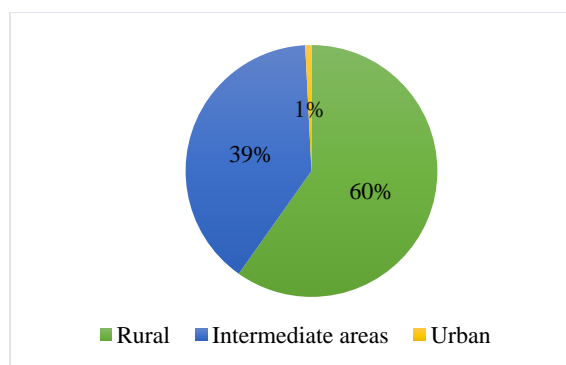


Fig. 3. The situation in Romania, 2012.

The communist period promoted the industrialization of urban areas, resulting in a large rural exodus. In the late 1980s, Romania was divided into urban areas inhabited by industrial workers and rural areas, where large agricultural units provided jobs for people who had lost their lands. In the region of Moldova and Muntenia, the main agricultural units were state farms, while in the rest of the country agricultural cooperatives dominated, concrete cases being the plains of Transylvania and Banat. In 1989, state farms and cooperatives represented 90% of Romania's used agricultural area (Bouniol, 2013).

After the Revolution of December 1989, which ended communism, de-collectivization led to the fragmentation and privatization of land. Cooperatives and state farms were then abolished very quickly. The cooperatives, which accounted for two-thirds of the arable land in 1989, were dismantled by the Land Fund Law in February 1991. The land was divided into many small plots that were redistributed to the former owners and those members involved in agricultural cooperatives. State farms were dismantled by Law no. 15/1990 and became commercial companies or autonomous kings. In the early years, these companies were formally seen as private, but had only limited autonomy, because the state held 70% of their capital (through ownership of shares or shares) (Bouniol, 2013).

Private investments in the agro-industrial sector were legalized starting in the 1990s. The land market in Romania was not yet open to the rest of Europe at that time, so the first to own considerable amounts of land were Romanians; Art. 68 of chapter V of the land fund law no. 18 of February 19, 1991,(1) "Physical persons who do not have Romanian citizenship and domicile in Romania, as well as legal persons who do not have Romanian nationality and headquarters in Romania, cannot acquire ownership of the land of any kind through deeds between vineyards." Many state farms and agricultural cooperatives were bought by former Romanian officials (the vast majority of high-ranking) who took full advantage of the land privatization process to become owners (Bouniol, 2013).

After the 1989 Revolution, the agrarian structure was organized around the small-scale exploitation of individual plots of land by peasants and around large private production units owned by the state. The first individual farms and family associations consisting of more than 20 million plots of land represented 65% of the used agricultural area of Romania.

In 2013, 99.2% of farms had no legal status, so it is not known exactly whether they are an individual or family subsistence plots. In 2010, the average size of these farms was 3.5 ha while the average size of holdings with legal status was 191 ha (General Census of Agriculture, December 2010 – January 2011). At both ends, the smallest farms are less than one hectare, and the largest cover tens of thousands of hectares of agricultural land (Bouniol, J. 2013).

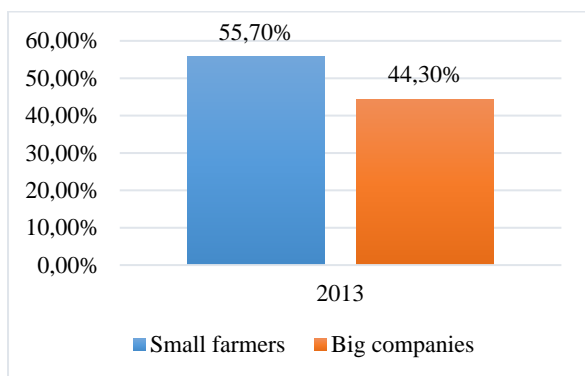


Fig. 4. Landowners of Romania in 2013

According to the Romanian Institute of Statistics (RIS), in 2013, 99.2% of small farmers work 55.7% of the land, while 0.8% of large companies work 44.3% of the land.

The average area of a peasant farm (owned by people) was 2.02 hectares and accounted for 55.7% of the country's agricultural area, while company-owned agricultural enterprises averaged 207.49 hectares and accounted for 44.3% of the Romanian agricultural area (INS, 2014).

2.1. Actors and institutions involved in the process

Behind most large-scale agricultural projects is a network of global actors who make the project possible. These actors include banks and companies that finance the project and companies that buy the products grown or processed by it.

All these actors are necessary for the success of the project and all aim to gain a profit from it in one way or another (Borras et al., 2020).

The main entities that control the land in Romania, in addition to the several hundred thousand hectares owned by domestic companies, are the following:

1. Small farmers: usually, they do not have enough own funds, nor do they have access to bank loans to pay their share of the modernization costs. With banks reluctant to lend them money, the investment capacity of small farmers remains low. Thus, it is often impossible for them to purchase equipment to improve efficiency or to meet up-to-date standards. Therefore, the local populations are still diminished and neglected in the agricultural sphere, which does not constitute any obstacle for multinationals and land grabbing (Heubuch, 2016);

2. Banking institutions, investment funds, pension/insurance funds: mostly buying very large areas of land (ranging from 3000 ha to 40000 ha and even more) for speculative purposes, international banks or investment funds register by usual subsidiaries or sister companies in Romania through which land acquisitions and land consolidation begin. Betting on the increase in land prices, the consolidated plots are planned to be sold in 10-20 years. The holders usually do not engage in agricultural exploitation and lease the land to other companies (foreign or domestic).

The whole process is highly non-transparent and incites corruption at all levels (lease contracts are often linked to local civil servants, and preferential companies). Examples: Rabobank, Generali (Italy), Spearhead International (United Kingdom), Black Sea Agriculture (United States of America) (Heubuch, 2016);

3. Private multinational companies: This category includes multinational companies especially from Western Europe (but not only) attracted by the investment opportunities presented by the host country. Romania is usually not the only destination for these companies, many of them also invest in African or South American countries. Examples: Bardeau Holding (Austria);

4. Private investors from abroad: Investors in this category represent natural persons from other EU countries or from outside the EU who invest their capital in Romania, registering a company in the country, through which they buy/rent land. Many of the companies are developing vertically, having businesses in other sectors of the food chain besides manufacturing, or are very export oriented. The investment patterns are mostly the same as for the category mentioned above, but usually, these actors own less land (200 - 4000 ha). Example: Yves Grasa (France);

5. Domestic private investors and companies: Taking advantage of the post-communist uncertainty over land ownership and the lack of government vision since the early 1990s, these actors were the first to access large tracts of land. The acquisitions include large communist farms and communal lands and involve several well-known Romanian oligarchs. Several cases with the highest concentrations of agricultural land can be listed here. Examples: InterAgro Holding (Ioan Niculae - 55,000 hectares), Racova Group (Adrian Porumboiu - more than 40,000 hectares);

6. Multinational companies trading agricultural commodities (international traders): Highly export-oriented companies that usually control land through contract farming and work with all the actors mentioned above. Having the most agricultural storage facilities, they also have crucial influence and control over commodity prices in Romania. Examples: Cargill (20 industrial silos), Bunge (association with Prio Foods - Grupo Martifer in biodiesel plants);

7. Development finance institutions (DFIs) are important actors in land grabbing, namely as financiers of land offers and investment projects. DFIs are specialized development banks that are mainly owned by national governments and contribute to the implementation of the latter's external development and cooperation policy. However, information about DFI activities is not readily available to parliaments or the public. DFIs invest their capital and can obtain additional sources of capital from national or international development funds and the private capital market. They can also benefit from government guarantees, which ensure their solvency.

8. In addition to the previously listed actors, in Romania there are associations - ecoruralis (the association of Romanian peasants), and other non-governmental organizations, as well as the Ministry of Agriculture and Rural Development (MADR).

2.2. Analysis of the phenomenon from a socio-economic, socio-cultural, environmental, and political point of view

1. Analysis of the phenomenon from a socio-economic point of view

Romania is a predominantly agricultural country, where agriculture provides an occupation for up to 30% of the population. However, land grabbing forces people to leave the countryside, generating a trend already well known in Western countries of rural exodus. The problem of the aging population and migration of young people was already an existing problem in rural areas, but land grabbing accentuates it even more. When land is accumulated for agro-industrial purposes, the high level of mechanization usually results in a wave of unemployment. Therefore, rural areas are under threat. The country's high export rates generate food insecurity, social vulnerability, and dependence on imports that low-income people cannot afford. The emphasis on export reflects how neglected Romanian rural needs are. Land grabbing is not only controlling land but also other resources. With land concentration, local communities lose access to the land and thus to the natural resources that traditionally support their livelihoods. Local communities lose their representation and independence and the whole situation generates shortages (Boruss, 2015).

2. Analysis of the phenomenon from a socio-cultural point of view

The phenomenon of land grabbing leads to the depopulation of rural areas by peasants and the loss of knowledge and traditions when values and practices they begin to resemble the consumer-driven and urban production system. Land conflicts are frequent in rural areas through residents and their relationship with external institutions. However, land ownership changes and fluctuations in land prices create additional problems. In addition, prices are rising and access to land is becoming prohibitive for small farmers. New entrants to agriculture (young farmers) have difficulties accessing land these days.

3. Analysis of the phenomenon from the environmental point of view

Changes in land ownership cause social uncertainty and environmental degradation. There is little focus on the economic scope and short-term benefits, thus neglecting social and environmental sustainability and not considering the long-term costs of land grabbing. Land consolidation is often linked to the establishment of monocultures, thus causing the loss of agricultural biodiversity and natural heritage. However, in Romania, there is a lack of awareness regarding the ecological impact of intensive agriculture that the accumulation of land generates (Boruss, 2015). The

use of fertilizers or pesticides causes soil depletion, water pollution, biodiversity destruction, and environmental degradation in general, to the same extent that intensive agriculture generates negative effects around the world. The depopulation of peasants generates the abandonment of the agroecological approach, which leads to environmental degradation.

In addition, the artificialization of the land is a long-term risk that is not considered. Using the land outside of agricultural purposes is a fact that threatens the food sovereignty of the country; unplanned development can destroy specific ecosystems. Land accumulation does not ensure the implementation of environmental use and land regulations. Some projects even cause disturbances in protected areas and established laws (for example, genetically modified soybeans in Botoșani County, although it is prohibited in Romania) (Boruss, 2015).

4. Analysis of the phenomenon from a political point of view

Large agricultural holdings tend to benefit from EU funds and funds granted by the national government. Facilities and subsidies are usually monopolized by large landowners due to their potential performance/efficiency and their ability and knowledge to access them (Boruss, 2015).

In Romania, public entities grant land concessions to large companies, thus facilitating the continuation of land grabs. Leasing contracts are prepared by the leasing company on their terms. Contracts are sometimes made in such a way that they are confusing and difficult for small farmers to understand, and sometimes they are not even respected (Eco Ruralis, 2013). From the studies conducted so far, there is no assistance or protection of any kind for those who are in a disadvantaged position. The advantages are taken by the investing companies. This paradigm leaves additional room for speculation and corruption.

Only certain actors and institutions gain from the lack of transparency of these transactions. All these problems added to the fact that small farmers will always suffer more from the risks of agricultural production than investors, whose existence does not depend on this directly on land, constrain local possibilities. Regulations and government are not on the side of farmers and agroecological food producers. In addition to the "legal" agreements that take place across the country, in expropriation processes, governments or companies usually do not compensate for the loss of public or communal property caused by land grabbing (Boruss, 2015).

III. CASE STUDIES

3.1. The case of Transavia – land grabber with Romanian capital

Transavia is a Romanian company with a tradition in the poultry market, with its operating model, which is based on a vertically integrated business system.

Transavia Group is the leader in the chicken meat market in Romania and is intensifying its exports both in the EU and in the Middle East. Currently, Transavia has more than 2,300 employees, more than 400 sheds in 29 poultry farms, and more than 10,000 ha cultivated with grain for the birds' consumption, a combined feed factory, 3 high-performance slaughterhouses of the latest generation, and a meat processing. Transavia farms are in eight counties in Romania: Alba, Cluj, Sibiu, Braşov, Timiş, Mureş, Harghita, and Caraş Severin, where over 100,000 tons of chicken meat are produced annually. Export represents 15% of the company's turnover and is carried out in several countries in the European Union, such as Great Britain, Ireland, France, Holland, Hungary, Greece, Slovakia, Bulgaria, Spain, Croatia, Czech Republic, Italy, and the African continent (Heubuch, 2016).

"100 euros or 800 kilos of wheat" as property tax payment, is what Transavia promised anyone willing to lease their land to the company. This payment is significantly lower than the amount paid annually in Romania as direct payments per one single hectare. However, unlike Transavia, it is practically impossible for small farmers with one or two hectares to become beneficiaries of such direct payments. Renting a few hectares is of financial or material interest; small farmers are happy with the idea of receiving €100 or 800 kg of grain per hectare every year to feed the few animals they have on the farm (Bouniol, 2013). A pitfall was that the contract of the lease had a term of 10 years, during which the lessor was obliged to pay a penalty of €690 per year per hectare for the residual term in case of premature termination by the lessor (Heubuch, 2016).

3.2. The case of Agro Chirnovi – land grabber with Lebanese capital

In the southeast part of Romania, Lebanese companies have been investing in agriculture-related businesses since the revolution. On 12 April 1991, the state company Agro-Chirnovi was established in Olteniţa. In 2002, the company was privatized, and in 2011, Agro-Chirnovi received the ISO 9001:2008 certificate for quality management systems and the ISO 22000:2005 certificate for food safety management systems (Heubuch, 2016).

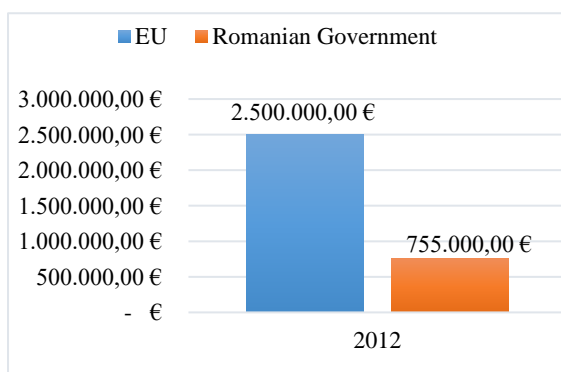


Fig. 5. Total subsidies that Agro Chirnovi benefited from in 2012.

Over 13,500 ha belong to Chirnovi, which is also the home of major companies growing cereals and oilseed plants. The Agro Chirnovi company (10,651 ha) owns state-of-the-art tools and equipment, buys agricultural products from Giurgiu and Călăraşi counties, and sells them on domestic and foreign markets (Corbu, 2012).

Through Maria Trading and Agro Chirnovi (both affiliated with the Maria Group), they have developed industrial agriculture and have plants for livestock. Covering more than 20,000 ha, the Maria Group's agricultural activities are facilitated by some strong political connections that provide a clear case for grabbing control over the land and decision-making processes regarding its use. Locally, residents are suspicious of the company, but they cannot oppose it because they have very few options to find jobs (Bouniol, 2013).

Călăraşi County and the small commune of Chirnovi offer what are perceived as ideal conditions for intensive agriculture. The largest agricultural corporations in the country are in this area - taking advantage of the extremely fertile land and the location near the Danube for river transport. Chirnovi is characterized by a large amount of good-quality soil and an aging population struggling to find employment. The availability of land resulting from the fact that the commune's population is aging allows Agro Chirnovi to fully spread its activities. Maria Trading and Agro Chirnovi, the two affiliated companies of Maria Group exploit more than 20,000 ha in the region. Established in 2002 in Călăraşi County, the two companies control 11,000 ha around Chirnovi commune, that is, approximately 70% of its land. The locals do not talk about what happened between the revolution and 2002 when the plots of the former state farm were given to the private company Agro Chirnovi. The company grows cereals (wheat, corn, canola, barley, sunflower, and alfalfa) using modern production systems. The products are mainly intended for export to countries such as Lebanon, Syria, and Egypt. This large-scale agriculture is once again associated with large-scale capital (Bouniol, 2013). In 2012, Agro Chirnovi applied for direct subsidies for approximately 11,400 ha, and the data shows that it would have benefited from €1.3 million (€107/ha) from the EU and €400,000 (€32/ha) from the Romanian government. In the same year, Maria Group also applied for direct subsidies for 10,000 hectares and would have benefited from €1.2 million from the EU and €355,000 from the Romanian government. From an environmental point of view, Agro Chirnovi's activities are harmful because they rely heavily on chemicals. The use of inorganic fertilizers, pesticides, and fungicides tends to reduce biodiversity and threaten ecosystems (Bouniol, 2013).

The company still plans to expand and increase its monopoly on arable land. Many owners sell or rent their plots to Agro Chirnovi in exchange for rent (between 650 and 850 kg of wheat or the equivalent of these kgs in lei). The contract period is between five

and ten years. If the owners want to terminate the contract, they must give a year's notice and pay the costs of land improvements (levelling, irrigation, etc.) undertaken by the company. Very few owners reclaim their land. Many smallholders or their heirs live elsewhere and are willing to give up their land, which the company buys. As a result, the agricultural cooperatives experienced a decrease in the number of members and the area of land in favor of the Agro Chirnogi company (Bouniol, 2013).

IV. LEGAL FRAMEWORK

Art. 1, ch. I from the Land Fund Law no. 18 of February 19, 1991, is the one that provides the clearest and strongest motivation for why the issue of land grabbing is included in the branch of land law: "Lands of any kind, regardless of destination, the title on the basis of which they are held or the public domain or of which they are a part, constitutes the land fund of Romania."

When we refer to land, we must realize that it is not a commercial commodity that can be manufactured in larger quantities. The land is a finite and limited resource, which is why it should not be subject to typical market norms. Land ownership, as well as their use and trading, must be subject to stricter regulations. The European Economic and Social Committee (EESC) believes that it is necessary to formulate, both at the level of the member states and at the level of the EU, a unique agro-structural model, from which to derive what involves land use and land rights (Nurm, 2015).

Land policy is within the competence of each member state. Member States may impose restrictions on transactions when national food and energy security is at risk or if there is an overriding public interest in imposing such conditions. Restrictions are allowed to avoid speculation, preserve local traditions, and ensure proper land use. At the same time, such restrictions limit the principle - enshrined in the treaties - of the free movement of goods and capital. Until March 4, 1998, when art. 68 of ch. V of the land fund law no. 18 of February 19, 1991, was repealed by al. (2) of art. 19 of law no. 54 of March 2, 1998 ("On the date of entry into force of this law, Chapter V - Legal circulation of land, art. 66-73 of the Land Fund Law no. 18/1991 is repealed") (Law no. 54 of March 2, 1998, regarding the legal circulation of land, published in the Official Gazette no. 102 of March 4, 1998), natural and legal persons who "do not have Romanian nationality and are domiciled in Romania, cannot acquire ownership of the land of any kind through deeds between lives" (Land fund law no. 18 of February 19, 1991, published in the Official Gazette no. 37/February 20, 1991), which meant that the land was available only to Romanian citizens.

On November 14, 2005, law no. 312 of November 10, 2005, regarding the acquisition of private ownership of land by foreign and stateless citizens, as

well as by foreign legal entities, in which it is written in chapter II, art. 3 that "The citizen of a member state, the stateless person domiciled in a member state or in Romania, as well as the legal entity established in accordance with the legislation of a member state can acquire the right of ownership over land under the same conditions as those provided by law for Romanian citizens and for Romanian legal entities". At the same time, art. 5, para. 1 of the same law says that "Citizens of a member state, stateless persons with domicile in a member state or in Romania, as well as legal entities established in accordance with the legislation of a member state can acquire the right of ownership over agricultural land, forests and forest land at the completion of a period of 7 years from the date of Romania's accession to the European Union" (Law no. 312 of November 10, 2005, on the acquisition of private property rights over land by foreign citizens and stateless persons, as well as by foreign legal entities, published in the Official Gazette No. 1.008 of November 14, 2005).

The Romanian Parliament adopted Law no. 175 of August 14, 2020 (Law no. 175 of August 14, 2020, published in Official Gazette no. 741 of August 14, 2020), published in Official Gazette no. 741 of August 14, 2020, for the amendment and completion of Law no. 17/2014 (Law no. 17 of March 7, 2014, published in the Official Gazette no. 178 of March 12, 2014) regarding some measures to regulate the sale-purchase of agricultural land located outside the city and amending Law no. 268/2001 (Law no. 268 of May 28, 2001, published in the Official Gazette no. 299 of June 7, 2001) regarding the privatization of commercial companies holding under management public and private agricultural lands of the state and the establishment of the State Domains Agency - through which amends some provisions relating to the sale of agricultural land.

One of the changes was made by establishing seven categories of pre-emptors, instead of the four categories established by the old form of law 17/2014 (co-owners, lessees, neighbours, and the State Domains Agency). The seven categories of pre-emptors that are in force are:

- a. "First-class pre-emptors: co-owners, first-degree relatives, spouses, relatives, and relatives up to and including the third degree;
- b. Rank II pre-emptors: owners of agricultural investments for tree crops, vines, hops, exclusively private irrigation and/or lessees. If there are agricultural investments for tree, vine, hop, and irrigation crops on the lands subject to sale, the owners of these investments have priority when buying these lands;
- c. Rank III pre-emptors: the owners and/or lessees of the agricultural land adjacent to the land subject to sale, in compliance with the provisions set out in para. (2) and (4);
- d. Rank IV pre-emptors: young farmers;
- e. Rank V pre-emptors: Academy of Agricultural and Forestry Sciences "Gheorghe Ionescu-Sișești" and

the research and development units in the fields of agriculture, forestry, and food industry, organized and regulated by Law no. 45/2009 regarding the organization and operation of the "Gheorghe Ionescu-Sișești" Academy of Agricultural and Forestry Sciences and the research-development system in the fields of agriculture, forestry, and the food industry, with the amendments and subsequent completions, as well as educational institutions with an agricultural profile, for the purpose of buying agricultural land located outside the village with the destination strictly necessary for agricultural research, located in the vicinity of the existing lots in their patrimony;

- f. Rank VI pre-emptors: natural persons with domicile/residence located in the administrative-territorial units where the land is located or in the neighbouring administrative-territorial units;
- g. Rank VII pre-emptors: the Romanian state, through the State Domains Agency."

Another amendment brought to law 17/2014 is constituted by the fact that the conditions that certain categories of pre-emptors must meet if they want to buy agricultural land have been changed. Thus, they have the obligation to fulfil the following conditions:

- a. "In the case of natural person lessees, to provide proof of domicile/residence located on the national territory for a period of 5 years prior to the registration of the offer for sale of agricultural land located outside the village;
- b. In the case of lessees, legal entities and associations, or natural persons, to provide proof of domicile/residence located on the national territory for a period of 5 years prior to the registration of the offer for sale of agricultural land located outside the village;
- c. In the case of legal entity lessees, with a shareholding of another legal entity, the shareholders who control the company to provide proof of the registered/secondary headquarters located on the national territory established for a period of 5 years prior to the registration of the offer for sale of the agricultural land located outside the city.

(3) In the case of the exercise of the right of pre-emption by young farmers, the priority for the purchase of the land subject to sale is given to the young farmer who carries out activities in animal husbandry, respecting the condition regarding the domicile/residence established/established on the national territory for a period of at least one year prior to the registration of the offer for sale of agricultural land located outside the village.

(4) For the purposes of this law, a young farmer is a person up to 40 years of age, as defined by art. 2 para. (1) lit. (n) from Regulation (EU) no. 1,305/2013 of the European Parliament and of the Council of December 17, 2013, regarding support for a rural development grant from the European Agricultural Fund for Rural Development and repealing Regulation

no. 1,698/2005 of the Council, as amended, who intend to carry out or carry out agricultural activities.

As a comparison, the old form of Law 17/2014 provided only three paragraphs:

1. "The alienation, by sale, of agricultural land located outside the village is done in compliance with the substantive and formal conditions provided for by Law no. 287/2009 regarding the Civil Code, republished, with subsequent amendments, and the right of pre-emption of co-owners, lessees, neighbouring owners, as well as of the Romanian state, through the State Domains Agency, in this order, at a price, and under equal conditions.

2. By way of exception to the provisions of para. (1), the alienation, by sale, of the agricultural lands located outside the village on which classified archaeological sites are located is made according to the provisions of Law no. 422/2001 on the protection of historical monuments, republished, with subsequent amendments.

3. The request and use of the land registry certificate in property transfer contracts regarding immovable property and other real rights fully prove the good faith of both the parties to the contract and for the instrumenting professional, regarding the quality of the owner of the seller on the property subject to sale according to the description in the land register."

Therefore, if the categories of pre-emptors do not show their desire or intention to acquire the agricultural land, only then can it be freely alienated to any other natural or legal person. Also, another new amendment previously presented is the establishment of the obligation to pay a tax of 80% of the amount representing the difference between the sale price and the purchase price of the agricultural land located outside the village, the difference being calculated based on the notaries' grid from that period. This provision is valid for the alienation by sale of an agricultural land before the completion of 8 years from acquisition. The regulations in force state that failure to comply with the provisions is punishable by the absolute nullity of the transaction. Another substantial amendment brought to law 17/2014 is given by the amendment of paragraphs (2) and (3) of article 6 of law 175/2020. These changes impose on the mayor's office the obligation to display the sale offer at its headquarters, or to post it on the website, within 5 working days from the registration of the sale offer, for 45 working days. Also, the town hall is also responsible for submitting a file containing the list of pre-emptors, copies of the request to display the sales offer and the supporting documents provided for in paragraph (1) - "the seller registers, at the town hall within the administrative-territorial unit where the land is located, a request requesting the display of the offer for sale of the agricultural land located outside the village, in order to bring it to the attention of the pre-emptors.

The request is accompanied by the offer to sell the agricultural land and the supporting documents provided by the methodological rules for the application of this law.", and the minutes of the display

of the offer, also within 5 working days to the structure within the central apparatus of the Ministry Agriculture and Rural Development, hereinafter referred to as the central structure, respectively the directions for agriculture of the county or the municipality of Bucharest, hereinafter referred to as territorial structures, as the case may be, as well as the State Domains Agency.

For example, the change in the establishment of the categories of pre-emptors makes it difficult for speculators and land grabbers to access agricultural land by exercising the right of pre-emption, precisely because they do not fall into any of the 7 categories of pre-emptors, and pre-emptors have priority when buying agricultural land located in the outskirts that are intended to be sold. Only if none of the pre-emptors express their desire to acquire the land, it can be freely alienated to other persons.

The change in the obligation to pay the tax of 80% of the price difference between the sale price and the purchase price for people who want to sell the agricultural land before the expiry of the 8-year period from its acquisition does not clearly present the way of calculating this tax, fact which results in making it difficult to apply this procedure. Also, from February 8, 2021, the applicable rules of Law 175/2020 are in force, but some of the essential terms of the law text do not have a clear definition, so the role of establishing this tax is to put a ban (indirect and temporary) of the sale of agricultural land.

V. RECOMMENDATIONS

1. Developing a structure with the role of a European land observatory to monitor large-scale land offers and land investments - Now, accurate and useful data on the functioning of EU land markets and the extent of agricultural land grabbing are still lacking. Thus, while there are some statistical tools that collect information on land ownership at the EU level, they are all highly technical and, while capable of generating a degree of legal certainty, say nothing about the substantive nature of a land transfer nor if such a transfer is justified in terms of social and environmental equity. This is also true for associated processes, such as the degree of financial involvement in land and the agricultural sector, where latent threats remain unchecked. The creation of a European land observatory documenting changes in land ownership including economic, social, and environmental criteria could be an important step towards the development of a real, socially relevant database on the state of the land in Europe today (Kay, 2016).

2. Allowing Member States to better regulate their land markets in line with sound public policy objectives, placing justified restrictions on the principle of free movement of capital - Inevitably, markets naturally tend towards concentration. A land market based only on the four freedoms (of goods, persons, services, and capital) is not comprehensive

enough to address the risk of discrimination and marginalization related to agricultural land grabbing. In addition, land is not an ordinary commodity that can be manufactured in ever-increasing quantities but serves as the basis of people's livelihoods, territories, cultures, traditions, and interactions with nature and the environment. Therefore, the Court of Justice of the European Union must demonstrate greater flexibility in the interpretation of national measures that can be taken to restrict the free movement of capital in accordance with justified political objectives, in accordance with art. 65 of the Treaty on the Functioning of the European Union. Art. 65 of the Treaty on the Functioning of the EU mentions the fact that art. 63 ("Pursuant to the provisions of this chapter, any restrictions on the movement of capital between member states, as well as between member states and third countries are prohibited") does not affect the right of member states:

a. "To apply the incidental provisions of the tax laws that establish a distinction between taxpayers who are not in the same situation as regards their residence or the place where their capital has been invested;

b. To adopt all the necessary measures to combat the violation of their legislative acts and their administrative rules, in the fiscal field or the prudential supervision of financial institutions, to establish procedures for declaring capital movements for the purpose of information administrative or statistical or to adopt measures justified by reasons of public order or public safety" (Kay, 2016). Thus, there are several policy options that Member States can consider in this regard: setting upper limits for the purchase of agricultural land and creating a system of pre-emptive rights to help those whose land ownership is under this upper limit.

3. Pushing EU institutions to act on European land issues - The debate within the EU institutions on land grabbing and land concentration in Europe has been somewhat sporadic, being split between various European parliamentary committees (including the European Economic and Social Committee and the Subcommittee on Humanlaggedof which have published reports on these subjects) and the European Commission which lagged behind, having not carried out any special research into the issue of land grabbing.

4. Promoting the land sovereignty movement - Land sovereignty is the right of working people to have effective access to use and control over land and the benefits of its use and occupation; where land is understood as a resource, territory, and landscape. Simply put, land sovereignty is the realization of the human right to the land of working people. It allies itself with and is intrinsically linked to the growing global movement for "food sovereignty". Thus, for example, the Romanian rural space must be reconsidered to attract the active population. Local authorities, government, and European authorities must stop land grabbing and must encourage

diversified farming of small-scale family farms, and the only viable option for rural development is based on environmentally responsible principles (Boruss et al., 2015). Food production must take priority over biofuel production in the use of agricultural land. Also, local communities should be involved in land use decisions; if they benefit from more rights and possibilities in this regard (Nurm, 2015). However, land grabbing is an expression of the dominant development model based on a sustained, increased, and unequal consumption of both finite natural resources and "renewable" resources. Land grabbing is the chronic manifestation of an industrial model of agri-food products, production, and energy consumption controlled by transnational corporations within a world system of trade and investment dominated by finance capital. A strong sovereignty movement across borders is a good way to deal with land grabbing (Boruss et al., 2015).

VI. CONCLUSIONS AND FINAL REMARKS

The whole purpose of the article is to highlight the fact that land grabbing is a negative phenomenon and to find possible solutions to reduce and even stop its effects. Unfortunately, this phenomenon has spread to Europe so much that small farmers have nothing left to do but to alienate their land to the owners of large private companies in other states, not to other states themselves. Due to the low land prices, the good quality of the soil, the permissive legislation, but also the existing corruption in the Eastern European states, the basis of European agriculture is affected and implicitly every European citizen. Food is not a choice, it is a necessity, and agricultural land is not just a convenience, but much more than that. The last intervention by the European institutions was when the Economic and Social Committee expressed its opinion on land grabbing in 2015. However, since then, there have been no steps in this direction, from which we can conclude that the problem of land grabbing is not considered to be of major interest to European institutions.

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