



# **AEIAR Workshop**

**How to facilitate the access to land  
for farmers**

**Follow up on the EP's report on  
farmland concentration**

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**(This presentation does not prejudge the official position of the  
European Commission)**



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# EP report on farmland concentration



## ***Difficulties of farmers to get access to farmland. Three main Objectives:***

- To improve data on land markets*
- To adjust the Common Agricultural Policy (CAP) to avoid farmland concentration*
- To get guidance from the Commission on how to regulate farmland markets in line with EU law.*



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# Call on the Commission for guidance

Need to protect land markets against concentration and speculation

"... to publish a clear ... set of criteria ... that make it clear to the Member States which land market regulations are permitted ..."



Plenum  
26 April  
2017

"Under EU law, Member States can take measures against land concentration and speculation in order to support rural communities and protect farmland."



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# Roadmap from 12 June 2017



## Interpretative Communication on Foreign Investment in Farmland and European Union law

[https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-2928160\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-2928160_en)

## ROADMAP

<b>TITLE OF THE INITIATIVE</b>	Interpretative Communication on Foreign Investment in Farmland and European Union law		
<b>LEAD DG – RESPONSIBLE UNIT</b>	FISMA B.1	<b>DATE OF ROADMAP</b>	12/06/2017
<b>LIKELY TYPE OF INITIATIVE</b>	Non-legislative guidance		
<b>INDICATIVE PLANNING</b>	<i>3<sup>rd</sup> quarter 2017</i>		
<b>ADDITIONAL INFORMATION</b>	-		
<p><b>This Roadmap aims to inform stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have. The Roadmap is provided for information purposes only and its content may change. This Roadmap does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</b></p>			

### A. Context, Problem definition and Subsidiarity Check

#### Context

In recent years, a number of Member States have adopted laws to regulate their agricultural land markets and to address undesired developments such as excessive land concentration and speculation. To this end, they subjected the acquisition of farmland to certain restrictions. The Commission has taken legal action against some of these restrictions ([http://europa.eu/rapid/press-release\\_IP-16-1827\\_en.htm?locale=EN](http://europa.eu/rapid/press-release_IP-16-1827_en.htm?locale=EN)).

On 27 April 2017, the European Parliament adopted an own initiative report on farmland concentration ("[State of play of farmland concentration in the EU: how to facilitate the access to land for farmers 2016/2141\(INI\)](#)"). The report essentially deals with the difficulties of farmers to get access to farmland. It refers in particular to the Commission's legal action concerning the acquisition of farmland. In this respect, the Parliament calls on the Commission "to publish a clear and comprehensive set of criteria" that "make it clear to the Member States which land market regulation measures are permitted" under European Union law.



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# Context and Problem to tackle



*New laws to  
address undesired  
developments on  
agricultural land  
markets*

*Challenged by the  
Commission*



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## What to achieve and how

- *set out the benefits and challenges of foreign investment in farmland*
- *outline the applicable EU law*
- *draw some conclusions from the jurisprudence of the ECJ on how to achieve public interests in conformity with EU law*
- *informing the debate on foreign investment in farmland*



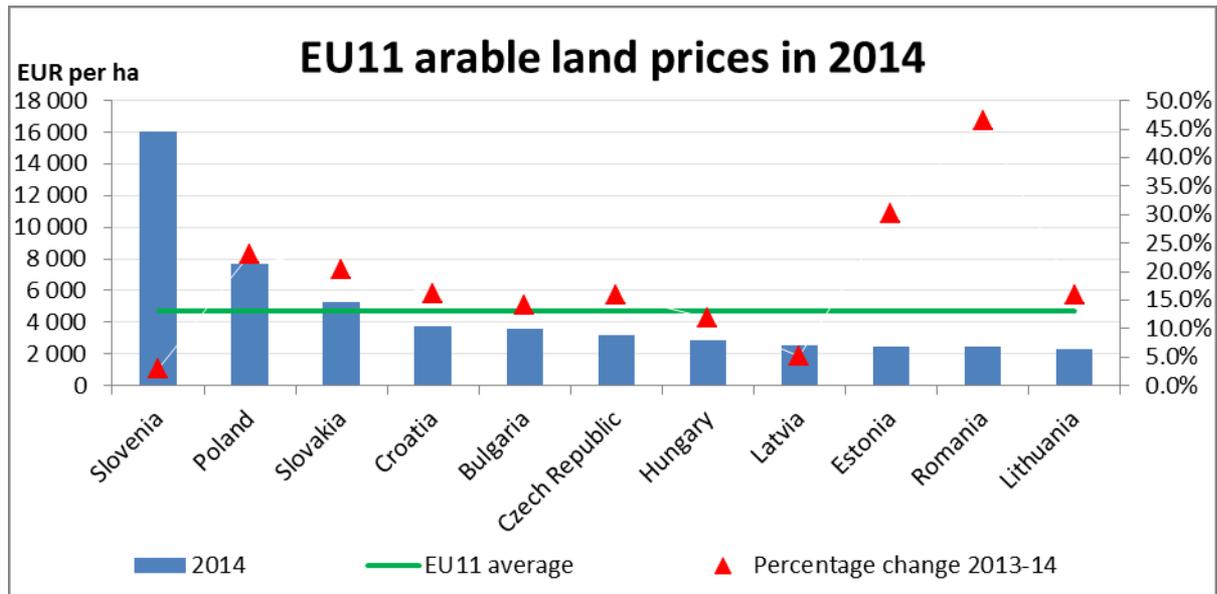
# Farmland prices per ha in €, for ex. in Lithuania





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# Rising land prices





Sharp increase of  
land prices could be  
driven by excessive  
land speculation





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# Recent land laws

- *to curb land speculation and concentration*
- *to keep farmland in agriculture use*



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# Farmland and EU law



**CAP and Single Market – two sides of the same coin**



# Acquisition of farmland and EU law

## - Free movement of capital applies (Article 63 TFEU)

- **Freedom of investment**
- **No restrictions (except in the public interest)**
- **No discrimination against foreigners**



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# Public interests that may justify restrictions:

- *to prevent land speculation*
- *to preserve traditional forms of farming*
- *to encourage a reasonable use of the land*



Restrictions must not be **disproportionate** and not **discriminatory**



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# Under scrutiny: Qualification requirement

*Only qualified farmers  
may acquire land*





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# Under scrutiny: Restrictions for legal persons

*Only companies which  
are engaged in  
agriculture can buy  
farmland*





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# Under scrutiny: Self-farming obligation

*Only those can buy  
land who work it  
themselves*





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# Under scrutiny: Residence requirements

*The acquirer has to  
reside in the country or  
in the municipality*





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# Language requirement?

*Which level?*

A cartoon illustration of a farmer wearing a straw hat, a green and white striped shirt, and blue overalls. He is holding a wooden staff with a black hat on top. A white cloth is tucked into his overalls.

**Labas!**

**Iki  
pasimatymo!**



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# Under scrutiny: Ban on selling to legal persons

*Only natural  
persons can buy  
land*





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# Less restrictive and not discriminatory approaches

- *prior authorisation of sales*
- *price regulations to avoid excessive speculation (C-39/14)*
- *priority for farmers*
- *speculation tax*





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# Conclusions

***Need to regulate land markets***

***Foreign investments enjoy freedom of investment and must not be restricted in a disproportionate manner***



***The Internal Market allows restrictions necessary to protect valid public interests***



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# Thank you

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