



# WHERE DOES THE EU MONEY GO?

AN ANALYSIS OF THE IMPLEMENTATION OF CAP FUNDS IN  
BULGARIA, THE CZECH REPUBLIC, HUNGARY, SLOVAKIA AND ROMANIA

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# INTRODUCTION

In recent years, we have seen mounting evidence that the European Union's funds in Central and Eastern Europe (CEE), particularly EU agriculture subsidies, tend to end up in the hands of local oligarchs connected to the political elites or big (agro) conglomerates rather than helping the small- and medium-sized farmers. The cases, which include conflicts of interest, nepotism or outright corruption and fraud, have made international headlines.

These are serious developments, which could potentially hinder the EU in its efforts to achieve its goals on a number of levels. Firstly, this creates doubts about the EU's ability to implement its budget effectively by avoiding risks related to corruption, fraud and misuse of EU money. Secondly, it calls into question whether the actual distribution of EU funds is serving the goals of the EU, such as protecting biodiversity, fighting climate change and inequalities or whether it serves the interests of the economic and political elite. Thirdly, this could overshadow and undermine the EU's fight for the rule of law in the EU while its funds may possibly help to finance illiberal leaders and populists directly or indirectly.

In many Central and Eastern European (CEE) countries, such as Bulgaria, the Czech Republic or Hungary, these scandals have triggered massive public protests in recent months and years. The public in those countries is very reliant on the EU institutions, particularly the European Commission, to ensure that such mismanagement of EU funds is prevented. However, it is a sad irony that, often, many of these cases still seem to be taking place 'too far away' from the attention of Brussels.

The Greens/EFA group in the European Parliament therefore commissioned this study to look in more detail into the practice of implementation of EU agricultural (AGRI) funds in five Central and Eastern European member states. The analysis covers Bulgaria, the Czech Republic, Hungary, Slovakia and Romania and offers insights from these countries.

The report aims to assess questions about:

- who benefits from the land and from the EU subsidies in the five member states;
- how far big and small players operate on an equal footing in the markets;
- what the potential links to the oligarchic structure are; and
- how the authorities implement existing rules and ensure that the EU tax payers' money is correctly distributed.

During these times of the Covid-19 global pandemic, a deep economic crisis, sharply growing deficits and increasingly empty public coffers, it is of the utmost importance that the EU budget is administered properly in order to support the well-being of all EU citizens and not in order to fill the pockets of those who are politically and economically powerful or well connected.

Hopefully, this report will shed more light on the situation in some of the EU member states vis-a-vis the administration of EU AGRI funds and stimulate activities to further strengthen parts of the EU toolbox that will protect the EU budget.

# BULGARIA : IN THE REALM OF THE BIG LEASEHOLDERS

By Dimitar Sabev

There have been many changes in the patterns of land ownership and cultivation in Bulgaria in the last century. In the 1920s, the government of BZNS, an early peasant party, introduced an agrarian reform that set a cap on land ownership of up to 30 hectares for farmers, and 10 hectares for renters. After Bulgaria entered the sphere of influence of the Union of Soviet Socialist Republics (USSR), a massive, compulsory, Soviet-style collectivisation of cooperatives took place. Since the beginning of the 1970s, the cooperatives were amasse into Agrarian-Industrial Complexes, with an average size of 27,400 hectares.<sup>1</sup>

After the fall of the Communist regime in 1989, the process of returning the land to its former owners and their heirs was slow and the new land reform was only finalised as late as in 1998. Nowadays, there is no ceiling for individual ownership of agricultural land by Bulgarian citizens and some of the new land tenants bought out tens of thousands of hectares of fertile land. **Still, the largest share of land remains divided between numerous small owners.**

Most of them are urban dwellers incapable of organising a substantial level of agricultural production. The land is therefore cultivated predominantly not by its owners but by big *arendatori* (land tenants). Their enormous farms cast a long shadow over the independent small farmers and have many other negative social and demographic impacts on the rural areas.<sup>2</sup>

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1 For an overview of the history of land relations in Bulgaria, see Georgi Medarov, "Land concentration, land grabbing and land conflicts in Europe: the case of Boynitsa in Bulgaria". In: *Land concentration, land grabbing and people's struggles in Europe*. 2013. TNI. <https://www.tni.org/en/publication/land-concentration-land-grabbing-and-peoples-struggles-in-europe-0>.

2 The Economic Research Institute at the Bulgarian Academy of Sciences published its annual report in 2016. Its theme was: "Agrarian sector as a factor for economic development in Bulgaria" (referred in this text as ERI 2016). It took a very critical stance towards the current development path of Bulgarian agriculture.

After Bulgaria's accession to the European Union in 2007, its agricultural sector became eligible for subsidies under the Common Agricultural Policy (CAP). However, while the CAP boosted production in some spheres, it exacerbated structural problems in the country's national agriculture system. Firstly, the CAP contributed to the **prevalence of cash crops** like wheat, maize and sunflower – to the detriment of crops with higher added value such as vegetables and permanent crops (for which Bulgaria was once renowned).<sup>3</sup> This, in turn, **lowered the demand for labour in rural areas**, leading to under- and unemployment in, migration away from and the depopulation of big parts of the country. Meanwhile, a situation emerged in which **enormous corporate structures** were receiving EU AGRI funds amounting to millions of euros. They have been advancing their interests in the government and other public structures – which ultimately leads to the development of a **land oligarchy** and widespread corruption.

According to the newest terrain data for 2019<sup>4</sup>, agricultural land in Bulgaria (Farm Area) amounts to 5.037 million hectares, of which 3.461 million hectares are arable land. **Cash crops** – cereals, mainly wheat and maize, together with sunflower – now **cover over 80 per cent of the arable land**, or 2.8 million hectares. Despite the unreliability of data on production in Bulgaria prior to 1989, it is noteworthy that, in 2019, the total production of tomatoes was, for instance, five times lower than the reported volumes for 1976.<sup>5</sup>

In total, 67,890 Bulgarian farmers received subsidies from the CAP in the financial year of 2018. The total amount of subsidies disbursed in 2019 was **785.324 million euro in direct payments**, in addition to another **359.604 million euro** for rural development and some market measures.<sup>6</sup> The implications of the CAP for Bulgarian agriculture are discussed in the following sections.

The latest data from Eurostat on the concentration of agricultural land is from 2016 and it reveals that 48.6 per cent of the land in Bulgaria is being cultivated by farms with an annual turnover of over 500,000 euro. Figure 1 introduces a European perspective to this number.

It is clear that Bulgaria, together with the Czech Republic and Slovakia, are **among the EU countries with the highest share of land** cultivated by big farms.<sup>7</sup> This extremely high level of concentration was already a fact before the EU accession of these countries and yet the unforeseen, or misjudged, effects of the CAP on the non-mature agricultural sectors in the post-socialist area may have deepened this level of concentration.

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3 In 2016, Bulgaria accounted for 2.6% of the farmland in the EU-28, 3.4% of the cereal production and only 0.9% of the fresh vegetables: Eurostat. 2019. *Agriculture, forestry and fishery statistics*. p. 148, 149.

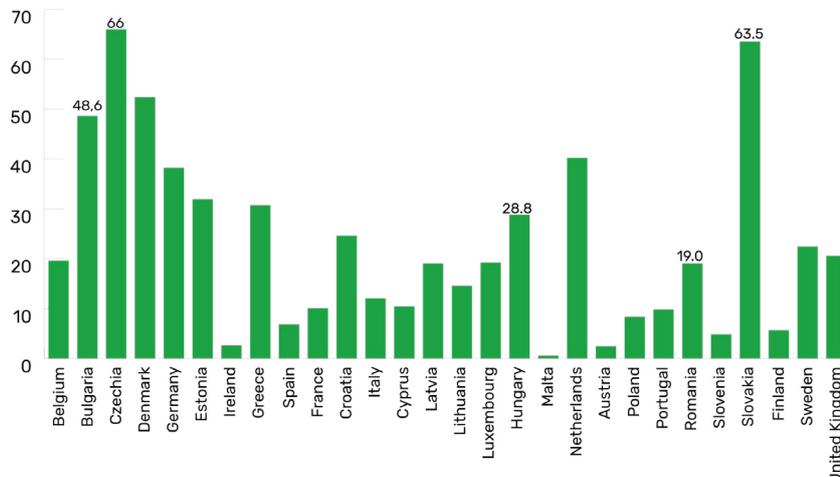
4 Annual survey known as BANSIK (Bulgarian Survey for Monitoring of Agricultural and Economic Conjuncture): [https://www.mzh.government.bg/media/filer\\_public/2020/09/25/ra\\_367\\_publicationbancik2019.pdf](https://www.mzh.government.bg/media/filer_public/2020/09/25/ra_367_publicationbancik2019.pdf).

5 According to the annual Agricultural Report of the Ministry for Agriculture, Food and Forestry, production levels of tomatoes in 2019 came to 148,000 tonnes and historical data for 1976 indicated 754,000 tonnes.

6 DG Agriculture and Rural Development. 2020. Statistical Factsheet Bulgaria. [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-statistical-factsheet-bg\\_en.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-statistical-factsheet-bg_en.pdf).

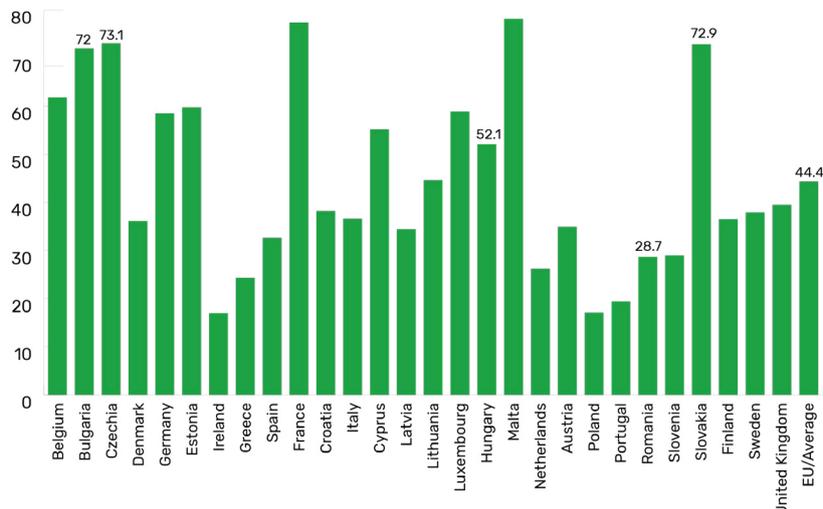
7 The 'real' number for Bulgaria may be still higher due to the widespread splitting of farms in order to avoid the capping of direct payments. See Section 4 for details.

**SHARE OF UTILISED AGRICULTURAL AREA CULTIVATED BY FARMS WITH > 500 000 EURO TURNOVER - EUROSTAT, 2016. IN %**



Even more telling is the EU comparison according to whether the land is being cultivated by its owners or by tenants (Figure 2). Again, Bulgaria, the Czech Republic and Slovakia move in the same direction, with a very high share of land cultivated by tenants. The Bulgarian score of 72 per cent far exceeds the EU average (45 per cent), and, taking into account recent developments, the tenants' share in Bulgaria has most probably gone up in recent years. This process is mirrored by the **rapid demise of small- and medium-sized family farms**. In 2013, owners cultivated one third of the land in Bulgaria; in 2016, this number dropped to 12.4 per cent. The explicit dedication of the CAP to the rural mode of life has done little to act as a counterweight to this process.

**SHARE OF FARM LAND CULTIVATED BY TENANTS - EUROSTAT, 2016. IN %**

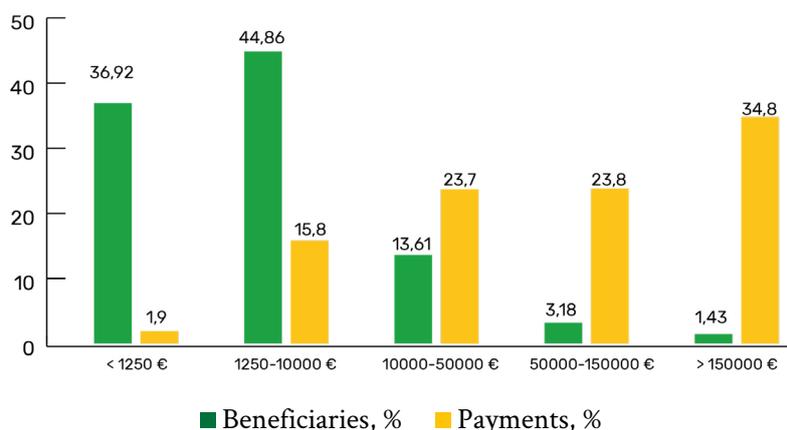


According to the National Economic Accounts, agricultural rents of 1.138 billion Bulgarian leva (580 million euro, EUR 1 = 1.96 BGN) were paid in 2018. These land rents are tax exempt and are being divided mostly among the ordinary Bulgarian households that own the land. It turns out that the disbursed EU AGRI funds are twice as high as the expenses of the tenants for leasing the land.

## WHO IS BENEFITING FROM THE EU FUNDS?

EU AGRI funds of 1.144 billion euro were paid out to Bulgarian beneficiaries in 2019 (in direct payments and for rural development combined, see Table below). This is a substantial sum for the country and is the equivalent to roughly two per cent of the GDP that is expected for 2020. Considering the ubiquitous renting and the high degree of concentration of land, it is obvious that the prevailing share of EU subsidies trickled into the hands of a few big *arendatori*.

### DISTRIBUTION OF DIRECT AID TO THE AGRICULTURAL PRODUCERS IN BULGARIA ACCORDING TO THE SIZE OF PAYMENTS IN EURO. SOURCE : EC, DG AGRI



This assumption seems to hold true: in the financial year of 2018, the top 2.4 per cent of the beneficiaries received 45 per cent of all direct payments, each of them over 100,000 euro.<sup>8</sup> When using the threshold of 300,000 euro – actually exceeding the national capping of direct payments – it turns out that the 230 biggest beneficiaries in Bulgaria received direct subsidies of more than 120 million euro. In other words, 0.33 per cent of the beneficiaries took 15.3 per cent of all payments.

At the same time, 48 per cent of the smallest beneficiaries retained a meagre 3.4 per cent of the payments. Thus, the well-known 80/20 principle becomes even harsher in the Bulgarian case: 82 per cent of the beneficiaries received less than 18 per cent of the funds (see Figure 3).

Yet the distribution of EU AGRI funds is even more uneven since many of the smallest farmers in Bulgaria remain outside the CAP – some of them intentionally, in order to avoid the associated red tape<sup>9</sup>.

<sup>8</sup> DG Agriculture and Rural Development. 2020 Statistical Factsheet Bulgaria.

<sup>9</sup> Magardic Hyulian, Chairman of the National Association of Small Family Farms and Producers, personal communication. The following article gives an example of this attitude: <https://www.mediapool.bg/milioni-ot-vazduha-news300647.html> (in Bulgarian).

**TABLE 1. EVOLUTION OF PAYMENTS UNDER THE CAP IN BULGARIA, IN MILLION EURO<sup>10</sup>**

	EAGF	EAFRD
<b>2007</b>	0.2	0
<b>2008</b>	178.3	240.8
<b>2009</b>	227.9	127.1
<b>2010</b>	293.8	277.8
<b>2011</b>	316.6	123.3
<b>2012</b>	425	306.8
<b>2013</b>	537.5	396.6
<b>2014</b>	602.1	393.7
<b>2015</b>	674.2	404.5
<b>2016</b>	742.9	152.7
<b>2017</b>	811.6	194.5
<b>2018</b>	815.5	205.7
<b>2019</b>	805.4	308.6
<b>TOTAL</b>	6431	3132.1

EAGF: European Agricultural Guarantee Fund

EAFRD: European Agricultural Fund for Rural Development

The explanation as to why the EU direct payments' scheme provides incentives for excessive land concentration is straightforward. According to ERI 2016 (cit., p.156) and other sources, agricultural subsidies in Bulgaria now cover at least 30 per cent of the expenses per unit of land for producing cereals/grain – and only one to two per cent of the associated costs for producing vegetables. Therefore, the marginal costs for the entrepreneur for cultivating cereals or sunflower are much lower. These commodity crops require a bigger size of operations in order to achieve economies of scale and fuller utilisation of the farm machinery. In turn, the cash crop farms operate with considerably fewer employees and thus lower labour costs – expressed in monetary terms as well as in organisational efforts<sup>11</sup>. Since the price of renting the land is low (sometimes *arendatori* fight for land but they follow a strict course not to bid up the rents), the basic laws of economics create the conditions for the emergence of huge agricultural estates.

10 Data from the EAGF and EAFRD financial reports for the respective year. The EAGF finances direct payments to farmers and market measures and the EAFRD contributes to rural development programmes.

11 "Agricultural labour input, measured in annual work units, halved between 2009 and 2018". The decline of agricultural labor in Bulgaria is the sharpest among the EU countries. See <https://ec.europa.eu/eurostat/documents/3217494/10317767/KS-FK-19-001-EN-N.pdf/742d3fd2-961e-68c1-47d0-11cf30b11489>, p. 75, 148.

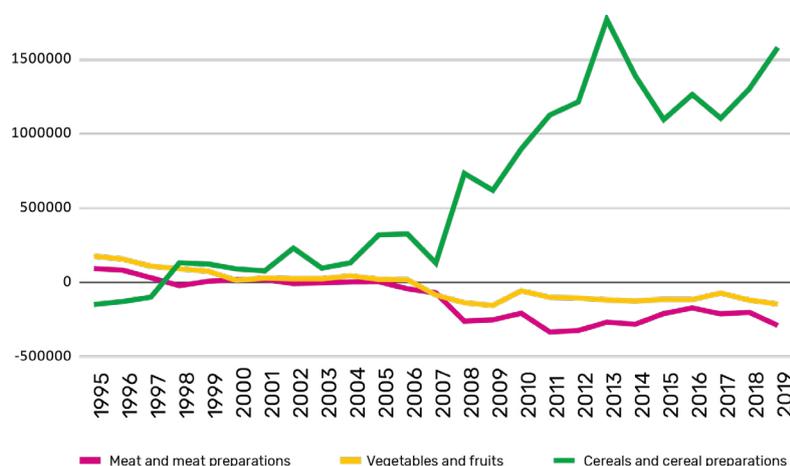
In this connection, the European Commission database on the Farm Economy<sup>12</sup> provides a revealing comparison. As of 2018, the average output per Bulgarian farm cultivating field crops amounted to 116,566 euro – while the average number for the EU was 70,322 euro. Moreover, the average EU farm producing field crops received 15,695 euro of EU AGRI funds, and in Bulgaria, this sum was twice as high, at 31,000 euro. This discrepancy indicates that the EU AGRI funds do indeed influence the structure of Bulgarian agriculture while pushing it – due to the current design of the CAP – towards excessive land concentration and crops with lower added value and labour input<sup>13</sup>.

Therefore, the current design of the CAP, which allocates subsidies mainly per unit of land cultivated while overlooking the economic performance, effectiveness or social and environmental impacts on the farm and in the broader region, creates – at least in Bulgaria – a vicious circle in terms of economic incentives. In its current form, **the CAP and the simple area payments indirectly favour crops with low added value and low demand for labour**, like wheat and maize, while the agricultural production with higher added value that may be marketed to end users abroad – while securing employment in the rural regions – receives relatively little support.

Data on the international trade compiled by the United Nations Conference on Trade and Development (UNCTAD) (see Figure 4 below) reveal the other side of the coin for Bulgarian agriculture. Prior to 2007 and the CAP payments scheme, Bulgaria had much lower total exports of cereals and cereal preparations – but the trade in vegetables and fruits and in meat products was balanced. In 2019, after more than a decade under the CAP, the export of cereals had grown spectacularly, mirrored by a widening deficit in terms of trade with more valuable agricultural products like fruits, vegetables or meat.

#### NET EXPORTS OF SELECTED BULGARIAN AGRICULTURAL PRODUCTION.

SOURCE : UNCTAD, IN THOUSANDS OF USD



12 European Commission. Farm Economy Focus. Database for 2018, last update 1 July 2020. <https://agridata.ec.europa.eu/extensions/DashboardFarmEconomyFocus/DashboardFarmEconomyFocus.html>

13 The Institute for Market Economics, a pro-market Bulgarian think-tank, stated, in a report on the impacts of the CAP, that: “From the data available it can be said that the nature of the support (payment per hectare) has stimulated... simplification of production... and withdrawal from intensive sectors”. IME. 2013. *Application of the Single Area Payments Scheme in Bulgaria: Analysis of the Effects*. <https://ime.bg/var/images/Direct-Payments-Im-pact-in-Bulgaria.pdf>

As will be discussed in the next section, a cap or “ceiling” was imposed on direct payments in recent years and yet it failed to achieve its goals. According to the database of the State Fund Agriculture (the payment agency that disburses EU AGRI funds), there were as many as **30 instances in 2018 of direct payments exceeding 500,000 euro**, with a total amount paid to these biggest beneficiaries of 26.35 million euro. Moreover, investigations and financial reports published in the national Commercial Registry indicate that as much as 11 million euro of the EU AGRI funds for 2018 went to only one end user, as explained in Section 4.

At the opposite end of the spectrum, out of more than 87,000 registered agricultural producers in Bulgaria, less than 58,000 were eligible for receiving direct payments from the EU (the minimum size of a farm to qualify for direct payments in Bulgaria is 0.5 hectares). As already noted, some small or independent producers simply refuse to apply for (direct) subsidies, citing the onerous paperwork and the constant threat of being punished if they are not compliant. The conclusion appears to be that **big corporate structures are those benefiting most from EU AGRI funds for Bulgaria**.<sup>14</sup>

## EQUAL FOOTING FOR BIG AND SMALL?

After 2014, following the amendments introduced to the philosophy of the CAP, Bulgaria implemented a cap of the largest direct payments, with a five per cent reduction for payments above 150,000 euro. A maximum amount of subsidies per agricultural producer of 300,000 euro was also imposed. This measure was widely publicised as an attempt to limit the concentration of land and power in Bulgarian agriculture and yet it turned out to be futile. According to calculations by Bulgarian experts, **the cap on direct payments in 2018 concerned only 42 farmers** and the funds that were withheld due to this ceiling amounted to 5.34 million leva, that is, less than three million euro – merely 0.7 per cent of the total amount of the direct payments for the year.<sup>15</sup>

Three **design mechanisms explain the inefficiency** of the ceiling on direct payments that was introduced. Firstly, it concerns only decoupled direct aid per unit of cultivated land, while the ‘green payments’, the redistributive payments, and payments under different market measures are being disbursed in full regardless of the size of the farm. This provision essentially ‘lifts the ceiling higher’ since the decoupled payments constitute up to 60 per cent of the total.

Secondly, in accordance with the EU regulation, labour costs may be deducted from the calculation of extra subsidies before applying the cap on direct payments. This implies that big agricultural producers may easily ‘hire’ their family members on a very high fictitious salary or pay themselves

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14 Even prior to 2007, the pre-accession EU AGRI funds favoured big commercial projects, instead of small or medium-sized farms that support the development of rural regions. See Za Zemiata. 2017. *Concentration in the Bulgarian Agriculture. Reforms Needed*. [https://www.zazemiata.org/wp-content/uploads/2019/08/Koncentracia-na-zemedeliето\\_Neobhodimite-reformi.pdf](https://www.zazemiata.org/wp-content/uploads/2019/08/Koncentracia-na-zemedeliето_Neobhodimite-reformi.pdf). The cited report concludes that the current CAP design deepens excessive concentration in the Bulgarian agricultural sector.

15 Pancheva, Bilyana. “Analyzing the capping of direct payments”. *Agri.bg*, 8 March 2020. <https://agri.bg/novini/agri-analiz-na-tavana-po-sepp> (in Bulgarian).

six-digit compensation. According to the abovementioned calculation, before withholding direct payments of 5.34 million leva, labour costs amounting to 12 million leva have been deducted from the subsidies due. Thirdly, the huge agrarian conglomerates tend to split into several smaller firms, controlled by family members, or other 'fronts'. This is a widespread practice well known to the authorities, as will be discussed in next sections.

The Ministry of Agriculture, Food and Forestry, which is the biggest administrative structure in Bulgaria, with more than 17,000 public servants<sup>16</sup>, has adopted some rhetoric saying that it makes special effort to support small farmers in particular. However, there is little evidence that this actually happens. Prior to her public appointment as the head of the Ministry since November 2014, Dessislava Taneva, served as a CEO of one of the biggest economic structures on the Bulgarian grain market - *Mel Invest Holding* - for more than a decade. Bulgarian activists maintain that Mrs. Taneva has constantly implemented policies that directly favour the biggest players in the sector.<sup>17</sup>

In June 2020, when a leaked controversial record alleged that the Minister was reluctant to share some inconvenient facts about EU AGRI funds<sup>18</sup> with the European Commission, sixteen of the biggest organisations of agricultural producers, including the influential National Grain Producer Association, publicly supported the person and the policies of Taneva. Yet this endorsement did not prevent the next leakage: *Bivol.bg*, a popular Bulgarian investigative site, revealed that, in 2018 and 2019, the father-in-law and the sister-in-law of Mrs. Taneva received combined more than 500,000 euro of EU AGRI funds<sup>19</sup>. The Minister confirmed the fact, yet insisted that there was no conflict of interest.

In broader terms, Magardich Hyulian from the National Association of Small Family Farms and Producers holds that, since the very introduction of the CAP in Bulgaria, the government has intentionally neglected the problems of the small farmers. According to Hyulian, the EU agricultural support mechanism by itself is not necessarily to blame for this development – the CAP is only a framework. The true source of conflict, according to him, are the “liaisons between the huge agricultural producers and administrative-political subjects” in the country.

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16 ERI 2016. The cited report also revealed that 1,600 officials of this number are employees of the SF Agriculture – that is, responsible mainly for the disbursement of EU AGRI funds.

17 Za Zemiata (Friends of the Earth Bulgaria). 2016. *Concentration in the Bulgarian Agriculture*. p. 13. <https://www.zazemiata.org/wp-content/uploads/2019/08/Koncentraiata-na-zemedeliето-v-Bulgaria.pdf>. This report concludes: “The state’s role is not expressed in supporting of small and medium-sized producers in their receiving of EU agricultural funds, but in political pressure for their exclusion from the market”.

18 <https://bivol.bg/taneva-eu-cheating.html>. In this leaked video, a representative of Bulgarian producers of vegetables asks the Ministry why the payments to the producers have been higher than expected. The reason was more or less clear: the Ministry redistributed to real producers the substantial funds fraudulently claimed. Then the Minister answered, “Let us insist that we have no such fraud and everything is OK, otherwise they will deny us also this [financing]... Let us not boast with our fraud. Tomorrow they may say – ‘so you do not have to receive this help’”.

19 “Bulgarian agriculture minister’s in-laws absorb BGN 1M in EU subsidies”. *Bivol.bg*, 10 June 2020. <https://bivol.bg/en/bulgarian-agriculture-ministers-in-laws-absorb-bgn-1m-in-eu-subsidies.html>.

Plamen Abrovsky, who worked on the negotiations on direct payments at the Permanent Representation of Bulgaria to the European Union until 2015, has a different approach to the problem. He points out that the philosophy of the CAP benefits the big producers at the expense of the small. According to the expert, there is no legal division between 'big' and 'small' farmers in the CAP vocabulary. Therefore, the rhetoric 'to help the small' or to 'limit the expansion of the big' is vague. If the only criterion distinguishing between big and small is the land utilised, one may overlook the fact that economic value produced by 0.5 hectares of greenhouse, for instance, may exceed that of 500 hectares of grain crops.

According to Abrovsky, the design of the capping of direct payments is **intentionally weakened** – and in this respect, he expects that this measure would remain futile even if the capping would be lowered to 100,000 euro per farmer, as negotiated for the period from 2021 to 2027. In the end, a cap on the largest payments is already in place – yet it concerns only 42 producers in a highly concentrated market, as the Bulgarian agriculture market is. It is telling that, while negotiating the CAP reforms for the next period, the Bulgarian Ministry of Agriculture vigorously defended the ability of the member states to determine the ceilings on payments to the biggest producers independently. This fact is hard to interpret in any other way than it is to preserve the interests of the biggest *arendatori*.

The unequal footing of small and big farmers in Bulgaria has been empirically proven also by the fact that, in a recent project call, of all 244 project applications under an EU scheme supporting investments in tangible assets of small farms, as many as 43 per cent of them were disqualified at the stage of administrative compliance<sup>20</sup>. That means that two out of every five projects for the expansion of small farms were rejected even before their financial and technical evaluation. This is a clear indication that there are administrative barriers standing in the way of European funds reaching small farmers that are seeking to develop their business.

It is noteworthy that Bulgaria distributes only 0.3 per cent of the direct payments for agriculture through the Small Farmer Scheme, which is the lowest share across the EU, while Romania and Poland channel more than 11 per cent of the total payments through this scheme.<sup>21</sup>

Despite the mediocre results, the State Fund (SF) Agriculture, a paying agency which comes under the Ministry of Food, Agriculture and Forestry and which provides financial support to agricultural producers under state aid programmes (including the CAP), still insists that it intentionally eases the application procedures for the small farmers. And yet the project applications discussed in the previous paragraph were filed back in October 2018 – and their evaluation proceeded only two years later, not taking into account the technical advance, new regulations or price increases in the meantime. A similar delay of more than one year tainted the evaluation procedures under the second support measure for small farmers, 'Initial assistance for developing small farms'.

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20 Own calculations based on published protocols of the SF Agriculture. See also: "The SF Agriculture rebuffed the small farmers' projects for eurosubsidies". *Selo.bg*, 14 July 2020, [shorturl.at/vFIT7](https://shorturl.at/vFIT7) (in Bulgarian).

21 European Commission. 2019. Summary Report on the Implementation of Direct Payments [except greening]. Claim year 2017. pp. 25-27. Available at: [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key\\_policies/documents/summary-report-implementation-direct-payments-claim-2018.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key_policies/documents/summary-report-implementation-direct-payments-claim-2018.pdf).

The latest development in this field is the decision by the SF Agriculture at the end of September 2020 to redirect 'free funds' of small-farmer-related measures as loans to other farmers suffering losses in the Covid-19 crisis.<sup>22</sup>

To clarify, in the current Rural Development Programme for Bulgaria there are only two sub-measures addressed precisely to small farmers. Under the headline 'Initial assistance for developing small farms', there were slightly more than 2,000 contracts signed and nearly 56 million leva disbursed for the period between 2014 and May 2020. The other sub-measure (which subsidises investments in tangible assets up to 25,000 euro) has a total budget of 12.5 million euro. Even if the small Bulgarian farmers would be able to absorb the initial funds made available under the discussed sub-measures in full – which is highly doubtful – the total of 40 million euro of focused assistance to small farmers, for a period of seven years, looks insignificant against the background of the amounts distributed in direct payments. In any case, the claim that the Bulgarian authorities emphasise the development of small and medium-sized farms remains contested.

## A SOURCE OF OLIGARCHIC STRUCTURES?

A while ago, a number of investigative journalists, NGOs and academic researchers in Bulgaria made a link between the 'land oligarchy' and the skewed distribution of EU agricultural subsidies<sup>23</sup>. ERI 2016 (the thematic report of the Economic Research Institute) pointed out that the final beneficiaries of the lion's share of the EU AGRI funds in Bulgaria amount to approximately 100 individuals.<sup>24</sup> This number may be tentative and yet it is beyond doubt that some of the richest people in the country are being subsidised via the CAP with millions of euro on an annual basis. This complementary financial flow cements their economic power and enhances their political influence. There are indications that public institutions and agencies secure political and legal comfort for the biggest players.

The biggest receiver of EU AGRI funds in Bulgaria – at least, to our current knowledge – is a group of companies whose ownership can be traced back to Mr. Svetlozar Dichevski and his *Octopod Holding*. Official information published by the SF Agriculture reveals that five companies from Dichevski's circle received direct payments, including green payments, worth 11.3 million euro, in 2018.<sup>25</sup>

For the same year, 21 Bulgarian companies received direct payments of more than 1 million leva

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22 Kirilova, Neda. "The Ministry revealed the sub-measures it took money from due to COVID-19". *Agri.bg*, 28 September 2020, <https://agri.bg/novini/ministerstvoto-otlozheniya-priem-po-internet-myarkata-ne-vliya-na-podkrepat-za-fermerite> (in Bulgarian).

23 Vateva, Denitsa, Maria Ivanova. "The most subsidised grain producers". *Kapital*, 13 August 2014 [https://www.kapital.bg/politika\\_i\\_ikonomika/bulgaria/2014/08/13/2361193\\_nai-subsidiranite\\_proizvoditeli\\_na\\_zurno/](https://www.kapital.bg/politika_i_ikonomika/bulgaria/2014/08/13/2361193_nai-subsidiranite_proizvoditeli_na_zurno/) (in Bulgarian); Za Zemiata. 2016. Concentration in the Bulgarian Agriculture. Hands on the Land for Food Sovereignty.

24 Economic Research Institute. 2016. *Annual Report 2016. Focus theme: Agrarian sector as a factor for economic development in Bulgaria*. pp. 147-165. Bulgarian Academy of Science, Sofia.

25 Vassileva, Christina. 2019. "Grain Millions. See the firms that collected direct payments of more than 1 million leva for 2018". *Agri.bg*, 14 October 2019. <https://agri.bg/novini/zarnenite-milioni> (in Bulgarian).

(or 511,577 euro). These firms, or rather economic structures, cultivate tens of thousands of hectares but are also aware of the opportunities of diversification: besides cultivation of land, many of them are also active in the grain storage and grain export business, the distribution of agricultural machinery and fertilisers, as well as in construction.

Of course, the large scale of operations does not predetermine that enterprises will be oligarchic, which refers to the exploitation of political process by the richest people in order to reap private benefits (as per the millennia-old definition of oligarchy). However, in the case of Bulgarian agriculture, there are plenty of examples that the large scale of operations goes hand in hand with the exertion of political influence.

It is noteworthy that concentration in the Bulgarian agricultural business is actually deepening. According to *Kapital*, an established Bulgarian business weekly, the ten biggest companies in the agricultural sector in Bulgaria in 2018 generated a turnover of 2.86 billion leva combined, while increasing their sales by 10 per cent on an annual basis<sup>26</sup>. This bigger scale is already attracting the attention of global commodity traders: the first and the third in line of those companies in the top ten of the Bulgarian agricultural sector are the US-based conglomerates *Cargill* and *ADM*. In its annual financial report for 2018, *Cargill Bulgaria* noted that it controls 16 per cent of the Bulgarian grain and sunflower seed export.

Thus, land concentration provokes economic processes that go beyond the establishment of national oligarchy and anchor the country to the global food supply chains – while pursuing negative terms of trade and operating on a sub-optimal equilibrium.

One of the numerous examples of close connections between big agricultural business and the political elites in Bulgaria comes in the form of Grigor Grigorov, the sole owner of *Agrocom EOOD*. According to the official database of SF Agriculture, *Agrocom* received nearly 1 million leva (507,228 euro) in agricultural subsidies in 2018<sup>27</sup>. It is up to the authorities to determine whether this big diversified company has something in common with *Agrocom Invest* and *Agrocom Consult* – both of them registered at the same address in the town of Pleven but with different owners, receiving direct payments of 425,616 euro combined for 2018. Still more interesting is that Mr. Grigorov was among the early sponsors of the ruling party GERB, in addition to being elected a municipal councillor in the town of Veliko Tarnovo from the GERB's list.<sup>28</sup>

A recent journalistic investigation of a supposedly small incident elucidated the murky connections between public institutions and some of the biggest grain producers in Bulgaria – who correspond-

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26 Vateva, Denitsa. "The biggest in agriculture: good price, good year". *Kapital*, 1 August 2019. [https://www.capital.bg/specialni\\_izdaniia/klasacii/2019/08/01/3932718\\_nai-golemite\\_v\\_zemedeliето\\_dobri\\_ceni\\_dobra\\_godina/](https://www.capital.bg/specialni_izdaniia/klasacii/2019/08/01/3932718_nai-golemite_v_zemedeliето_dobri_ceni_dobra_godina/) (in Bulgarian).

27 The database is accessible at: <https://seu.dfz.bg/seu/f?p=727:8110:::NO:::>

28 Nikolaeva, Vesela, Ani Kodjaivanova. "A town of two breweries". *Kapital*, 18 June 2012. [https://www.capital.bg/biznes/kompanii/2012/06/18/1849166\\_grad\\_na\\_dve\\_pivovarni/](https://www.capital.bg/biznes/kompanii/2012/06/18/1849166_grad_na_dve_pivovarni/) (in Bulgarian). See also the above cited text of Vateva and Ivanova: "The most subsidized grain producers" (*Kapital*, August 2014).

ingly benefit most from the EU AGRI funds. Bulgarian award-winning journalist Valya Ahchieva raised the issue of bee poisoning in a rural area, most probably caused by treating crops with chemicals banned in the EU (thiamethoxam).<sup>29</sup> A company from the circle of Svetlozar Dichevski cultivated the crops in question. For three consecutive years, the local beekeepers alerted the responsible institutions and samples have been taken proving the existence of thiamethoxam and other chemicals in the crops. Yet neither the local authorities nor the court nor the Ministry of Agriculture, Food and Forestry encroached on the interests of the big *arendatori*. Repeated omissions in administrative procedures that could hardly be unintentional left the alleged applicant of prohibited chemicals unpunished. In this case, one sees how the interests of small entrepreneurs that are supplying valuable ecosystem services are being constantly impaired to favour the big players – who receive millions of euro of EU funds, including in the form of ‘green payments’.<sup>30</sup>

Another recent misuse of EU AGRI funds in Bulgaria came in the form of fraudulent projects to build ‘guesthouses’ for rural tourism under the Rural Development Programme. The maximum amount envisioned under this scheme was 200,000 euro. After Bulgarian journalists raised the issue that private holiday homes branded as ‘guesthouses’ are being built with the EU money, the SF Agriculture had to investigate the case.<sup>31</sup> In total, 288 guesthouses built with EU AGRI funds have been checked. Of them, only 23 were fully compliant and no financial sanctions were applied. The flaws at 158 other ‘guesthouses’ were so big that the beneficiaries had to return the subsidies received in full – a sanction worth more than 43 million leva. Among the individuals who built themselves such ‘guesthouses for rural tourism’ were a deputy minister of economy (who consequently lost his job) and the family of a leader of DPS (abbreviation for ‘Movement for Rights and Freedoms’ – the political party that claims to represent the Turkish population in Bulgaria). The family of the DPS leader in question managed to construct five such guesthouses.

The latter fact is noteworthy since DPS is allegedly prone to using its political influence to advance private business interests. There are allegations that the ruling party GERB and DPS have aligned themselves in a secret agreement to control the underdeveloped rural regions. Respected journalists speak of a ‘DPS shadow’ over the Ministry of Agriculture, Food and Forestry, including the SF Agriculture, the payment agency responsible for the disbursement of EU AGRI funds among Bulgarian farmers.<sup>32</sup>

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29 See Ahchieva, Valya. 2020. The Unpunished Bee Poisoners. Part I and II. <https://www.youtube.com/watch?v=M-SIIkHzumBI&t=776s> (with English subtitles).

30 EurActiv Bulgaria. The octopus that kills bees in Bulgaria. 17 June 2020. <https://www.euractiv.com/section/agriculture-food/news/the-octopus-that-kills-bees-in-bulgaria/>.

31 Nikolov, Krasen. “Scam with most of the guesthouses”. *EurActiv Bulgaria*, 16 November 2019. (in Bulgarian)

32 Shikerova, Genka. “Is there a deal between GERB and DPS for controlling of mountainous regions?” *Svobodna Evropa* (RFE/RL for Bulgaria). 28 September 2020. <https://www.svobodnaevropa.bg/a/30860929.html> (in Bulgarian).

## HOW DOES THE SYSTEM WORK?

The issue of splitting companies in order to evade the capping of direct payments has loomed large since 2016 when this capping was first applied in Bulgaria. It is a common practice that *arendatori* split their enormous estates into several companies, which are formally owned by family members<sup>33</sup>. In other cases, one holding company controls several big receivers of EU funds directly or via proxies – subsidised just under the ceiling. As already mentioned, the lion's share of the EU AGRI funds goes to a limited number of enormous tenants – yet only 42 agricultural producers in Bulgaria were affected by the capping in 2018, parting with less than three million euro of their direct payments.<sup>34</sup>

Article 60 of EU Regulation 1306/2013 introduces the Circumvention clause against “artificially created conditions for obtaining advantages” (i.e. EU AGRI funds). EU Regulation 1307/2013 is even clearer when stating that “to make such reduction (by at least 5% of the basic payment to farmers which exceeds EUR 150,000) of the support level effective, no advantage should be granted to farmers who artificially create the conditions to avoid its effects”. The SF Agriculture responded to this framework by adopting a methodology for inspection that envisages different checks of the management and ownership of the businesses applying for EU AGRI funds – as well as geographical controls.

Public inspectors in Bulgaria follow an internal procedure for detecting connected companies. The procedure includes indicators like (1) coinciding addresses of correspondence or headquarters, (2) having the same executive managers, (3) companies established at the same time, (4) making simultaneous applications for subsidies, (5) making similar investment applications, (6) having the same subcontractors, or (7) having the same counteroffers. Also regarded as signs for possible connections are (8) having the same accountants, auditors or consultants, (9) having the same contributions in kind, or (10) being involved in the vertical integration of activities under different projects. These indicators serve as ‘yellow or red flags’ and, if at least five of them are present, the payment agency initiates a procedure to look into them.

One of the drawbacks of this system is that it relies mostly on open data supplied by the Commercial Registry and cannot automatically detect relatives of one's kin. In addition, the SF Agriculture faces considerable difficulties in **proving its claims for connected companies in court** – e.g. there are reported cases when the court rulings overlook all the above ‘red flags’.<sup>35</sup> However, even if a Bulgarian court finds that certain receivers of EU AGRI funds are not connected, the European Court of Auditors or the European Anti-Fraud Office may still impose sanctions.

In February 2020, the SF Agriculture announced that it would employ the EU Copernicus ob-

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33 Club Z. “Is there any connection between Miniu Staykov, Yana Staykova, Reni Staykova?” *Club Z*, 21 February 2020, <https://clubz.bg/94619-svyrzani-li-sa-minyu-stajkov-qna-stajkova-reni-stajkova> (in Bulgarian).

34 Agri.bg. “How many farms are affected by the payment ceilings?” *Agri.bg*, 04 June 2018, <https://agri.bg/novini/kolko-stopanstva-zasyaga-tavanat-na-plashaniyata> (in Bulgarian).

35 Nikolov, Dragomir. “It is easy to siphon-off European subsidies”. *Ikonomist*, Vol. 36/2019 (In Bulgarian).

servation programme to detect discrepancies between declared and actually cultivated parcels. At that time, the executive director of the State Fund, Vassil Grudev, conceded that, in 2019, checks of 22,007 hectares on the ground revealed errors of around 10 per cent in the declared areas for subsidising under the coupled support measures.<sup>36</sup> There is no newer information as to how the implementation of the new satellite monitoring system is proceeding.

These efforts by the SF Agriculture deserve praise and yet this massive ‘quasi-bank’ provides many examples of conflicting interests itself. Respected scholars and journalists in Bulgaria hold that DPS “has entrenched itself in the State Fund” and that the party in question is an “instrument of oligarchy”<sup>37</sup>. The special status of the payment agency and its autonomy – ostensibly implemented to avoid political interference – has in fact simply lowered the level of public supervision. A recent investigation of Bivol.bg claims<sup>38</sup> that the former deputy director of the State Fund – the same person that signed the contracts for subsidising the guesthouses for the extended family of the DPS leader – has also approved the granting of EU funds to a member of her own family. Nowadays, the former deputy director of the payment agency serves as an MEP elected from the DPS list; she is also a member of the Committee on Agriculture and Rural Development in the European Parliament.

In principle, by using data mining, it is completely possible to reveal conflicts of interest or connected firms evading the capping of direct payments, states an expert in the Ministry of Agriculture, Food and Forestry. Yet the expert also admits that the Bulgarian authorities have no interest in applying this measure and no intention to keep the ongoing concentration of land – and thus of DG AGRI funds – in the hands of a few big farmers.

A crucial aspect of Bulgaria not dealing with irregularities in the agricultural sector is the limited availability of relevant public information. A recent court case is telling of the attitudes of the responsible authorities: a lawyer specialising in agriculture sued the payment agency since it refused to grant public access to information about the 300 biggest agricultural companies since 2007 according to their subsidies received<sup>39</sup>. The State Fund held that **this information is not of public interest and does not concern the quality of work of the payment agency**. However, the Administrative Court ruled, on 26 October 2020, that this information is indeed of public interest

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36 State Fund Agriculture. “This year we will test the satellite monitoring system of fields”. 5 February 2020. [https://www.dfz.bg/bg/prescentar/novini/tazi\\_godina\\_testvame\\_monitoringovata\\_sistema/](https://www.dfz.bg/bg/prescentar/novini/tazi_godina_testvame_monitoringovata_sistema/) (in Bulgarian). Obviously, these additional checks later allowed the redistribution of unduly claimed payments to the real producers of vegetables. See Note 18 in Section 3.

37 Milcheva Emilia. “Look around: DPS are everywhere”. *Deutsche Welle Bulgaria*, 29 September 2020, <https://www.dw.com/bg/%D0%BE%D0%B3%D0%BB%D0%B5%D0%B4%D0%B0%D0%B9%D1%82%D0%B5-%D1%81%D0%B5-%D0%B4%D0%BF%D1%81-%D0%B5-%D0%BD%D0%B0%D0%B2%D1%81%D1%8F%D0%BA%D1%8A%D0%B4%D0%B5/a-55087320> (in Bulgarian).

38 Chobanov, Atanas. “Bulgarian ethnic party distributes EU funds to relatives”. *Bivol.bg*, 21 July 2020. <https://bivol.bg/en/bulgarian-ethnic-party-distributes-eu-funds-to-relatives.html>

39 Such information indeed could be extracted from the official database of the payment agency, but only for the last two years – which hampers the broader analysis and detection of connected players.

and the State Fund has to reconsider its decision.<sup>40</sup>

On the other hand, compared to other EU countries, Bulgaria seems to adopt a more open approach to agriculture statistics: sometimes the authorities publish primary data that would not be made public in other countries. Nevertheless, this openness is deceptive: the official web sites of the Ministry and the payment agency contain everything and yet little could be found there, sunk in the sprawled sections and sub-sections. The chaotic manner in which the Ministry and the SF Agriculture publish their information impedes system analysis. In this way, specific or sensitive information may remain for internal use – despite being published *de jure*.

The system administering the EU AGRI funds in Bulgaria displays many unfavourable features, including obstructed flow of information, lack of focused support for small farmers, numerous loopholes for evading the capping of direct payments and providing the biggest players with a comfortable administrative and legal regard.

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40 Vassileva, Christina. "A lawyer asked the payment agency: who took most subsidies since 2007?" *Agri.bg*, 28 October 2020. <https://agri.bg/novini/trnovski-advokat-pita-dfz-koy-vze-nay-mnogo-subsidii-ot-2007-a-g-nasam> (in Bulgarian).

# THE CZECH REPUBLIC: A STORY OF UNRESOLVED CONFLICT OF INTEREST

By Ondřej Kopečný, Marek Trošok,  
Vojtěch Kotecký

Czech agriculture is a peculiar mismatch between the current structure of land ownership and that of farms. It has emerged in recent decades as a combination of two legacies: of the pre-1990 farming businesses and of a strong restitution of property after 1989.

Agriculture covers slightly over half of Czechia. About 70% of that is arable land; 28% are meadows and pastures, 1% fruit orchards and less than 1% vineyards and hop gardens combined.<sup>41</sup> Winter wheat is grown on less than 800,000 hectares of arable land (i.e. about a tenth of the country), 400,000 hectares is oilseed rape, 300,000 hectares of maize and barley, a quarter of a million hectares of fodder crops (without maize), 65,000 hectares of sugar beet, over 20,000 hectares of potatoes and 10,000 hectares of vegetables.

In the late 1940s, what is Czechia today had a family-based agriculture, with a strong cooperative movement. The proportion of the work force in farming was already relatively low due to high levels of urbanisation and industrialisation. But it was rather evenly distributed due to the 1919 land reform, one of the pillars of the pre-war Czechoslovakian democracy.

Since 1949, farming has been almost entirely nationalised. Most of the farmers were forced into collective farms. Some larger farms, especially in the border regions, were operated as a State business ('State farms').

After 1989, the country applied strict restitution laws, similar to those of Slovakia and former East Germany.<sup>42</sup> Land was fully restored to former owners and their heir as long as they were permanent residents (not necessarily citizens). About 1.3 million hectares of farm land were returned, including approximately 11% of replacement land in cases where the original plot was not available

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41 Zpráva o stavu zemědělství ČR za rok 2018. Ministry of Agriculture, Prague 2018.

42 Hartvigsen , M., 2014. Land reform and land fragmentation in Central and Eastern Europe. Land Use Policy 36: 330– 341.

any more, due to, e.g., urban development or afforestation. Also, since ‘members’ of collective farms never legally lost their titles, they were free to simply withdraw their land. State farms, another 0.6 million hectares<sup>43</sup>, were largely privatised as such. By the end of the 1990s, about 90% of farm land was in private hands.<sup>44</sup> In 2013, a conservative government agreed to restore another 36,000 hectares of farm land to the church. Some 4% of agricultural land remains in the hands of the government – either as a temporary reserve for the remaining restitution cases or because the government has wished to keep it public, e.g. meadows in national parks – which has been rented to and is managed by, private farmers.

Consequently, after what has effectively been a 40-year freeze in land transfers, Czech agriculture emerged in the mid-1990s with the 1951 structure of land ownership.<sup>45</sup> The country has not undergone the concentration of farmland properties during post war decades, which, in northern and western Europe, has gone hand in hand with the concentration of farms themselves. A decade ago, a typical Czech farm land owner held an average of 6.3 plots, with a mean size of 0.4 hectares per plot.<sup>46</sup> There are about 1.75 million farm land owners in Czechia<sup>47</sup> (about 16% of the country’s population), a vast majority of whom lease their land to somebody else. Strictly speaking, about 80% of farmland is leased while the remaining 20% is farmed by its owners.<sup>48</sup> However, a recent survey by the Agricultural Association, a large farm businesses body, revealed that this is a somewhat misleading figure since their corporate members lease about 29% of land from associated parties – i.e. their own private owners or shareholders. That would put the real share of land rented from independent owners at about 50%.<sup>49</sup>

Meanwhile, post war concentration of *farms* themselves has moved at an even more rapid pace than in northern and western Europe, driven by forced collectivisation and confiscations. After 1989, many of the previous owners had their ownership – or, in the case of collective farm ‘members’, their real ownership rights – restored. However, many of them left agricultural jobs or even moved to cities during the Communist decades, just like elsewhere in Europe.

A vast majority of them chose not to return to farming in the 1990s. Many collective farms transformed themselves into private agricultural corporations, often owned and operated by previous collective farm managers, and leased the land from restored owners. The mean size of corporate

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43 Zpráva o stavu zemědělství ČR za rok 2018. Ministry of Agriculture, Prague 2018.

44 Banski, J., 2018. Phases to the transformation of agriculture in Central Europe – selected processes and their results. *Agricultural Economics* 64: 546–553.

45 In fact, it was even more fragmented, since, with no clear link between land ownership and farm structure, there was no economic incentive against splitting restored land within families.

46 Sklenicka, P., 2016. Classification of farmland ownership fragmentation as a cause of land degradation: a review on typology, consequences and remedies. *Land Use Policy* 57: 694–701.

47 Ekolist.cz: <https://ekolist.cz/cz/zpravodajstvi/zpravy/svaz-ubytek-fyzickych-osob-vlastnicich-pudu-pokracuje>

48 Sklenicka, P., 2016. Classification of farmland ownership fragmentation as a cause of land degradation: a review on typology, consequences and remedies. *Land Use Policy* 57: 694–701.

49 Zemědělský svaz: <https://www.zscr.cz/clanek/setreni-vlastnictvi-pudy-4838>

farms is 465 hectares.<sup>50</sup> Some 4,500 businesses<sup>51</sup> rent or own 69% of Czech farmland, while 25,000 family farms use 28% of the land.<sup>52</sup>

Czechia thus ended up with the highest mean farm size in the European Union, at 133 hectares, compared to 19 hectares in neighbouring Austria. The share of land operated by farms larger than 100 hectares (88%) is the second highest in the EU (after Slovakia).<sup>53</sup> But the share of farming corporations is not the lone cause. The mean size of Czech *family farms* is 39 hectares<sup>54</sup>, much more than the mean size of EU farms (16 hectares) and more than the mean farm size in all but eight EU countries.<sup>55</sup> Equally importantly – and in contrast to countries like Romania or Poland – the Czech Republic has relatively few small farms, and its small farms tend to be relatively large.<sup>56</sup> Even in absolute terms, Czechia, a medium-size EU country, has the fourth lowest number of farms smaller than 20 hectares, after Malta, Luxembourg and Estonia.<sup>57</sup> Furthermore, about 75% of economically ‘very small’ farms (i.e. ‘farms’ with annual output below €8,000) are meadows and pastures.<sup>58</sup>

Nevertheless, Czech farms have been getting smaller and their number increasing in recent years in a surprising contradiction to the Europe-wide (and global) trend.<sup>59</sup> Research suggests that the key driver is the government programme of land consolidation, which has been changing the structure of land ownership, unlocking individual owners’ land from larger blocks and opening up the space for new independent farmers.<sup>60</sup>

While there is some foreign ownership of both farms and farmland, it does not appear to be a major issue. Spearhead International, a UK-based farming company, rents 25,000 hectares<sup>61</sup>: a substantial size regionally, but less than 0.1% of the country’s farmland. Some investors – mainly from Germany, the Netherlands and Belgium – buy land directly.<sup>62</sup> However, in a recently surveyed sample of farm land sales, those involving foreign buyers amounted to less than 1% of contracts (and less than 0.1% of land sold).<sup>63</sup>

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50 Zpráva o stavu zemědělství ČR za rok 2018. Ministry of Agriculture, Prague 2018.

51 Including about 500 cooperatives – however, these are usually *de facto* companies registered as a cooperative (as were collective farms) rather than traditional cooperatives of independent family farmers.

52 Zpráva o stavu zemědělství ČR za rok 2018. Ministry of Agriculture, Prague 2018.

53 Agriculture, forestry and fishery statistics: 2016 edition. Eurostat, Luxembourg 2016.

54 Zpráva o stavu zemědělství ČR za rok 2018. Ministry of Agriculture, Prague 2018.

55 Agriculture, forestry and fishery statistics: 2015 edition. Eurostat, Luxembourg 2015.

56 Guiomar, N., et al., 2018. Typology and distribution of small farms in Europe: Towards a better picture. *Land Use Policy* 75: 784–798.

57 Agriculture, forestry and fishery statistics: 2016 edition. Eurostat, Luxembourg 2016.

58 Agriculture, forestry and fishery statistics: 2016 edition. Eurostat, Luxembourg 2016.

59 Janovska, V., Simova, P., Vlasak, J., Sklenicka, P., 2017. Factors affecting farm size on the European level and the national level of the Czech Republic. *Agricultural Economics* 63: 1-12.

60 Janovska, V., Simova, P., Vlasak, J., Sklenicka, P., 2017. Factors affecting farm size on the European level and the national level of the Czech Republic. *Agricultural Economics* 63: 1-12.

61 Spearhead International: <http://spearheadinternational.cz/nase-spolecnosti/spearhead-czech/>

62 Ekolist.cz: <https://ekolist.cz/cz/zpravodajstvi/zpravy/svaz-ubytek-fyzickych-osob-vlastnicich-pudu-pokracuje>

63 Situační a výhledová zpráva: půda. Ministry of Agriculture, Prague 2018.

Czech agriculture is therefore structurally similar to that of Slovakia or former East Germany – countries with similar histories of agricultural reform after 1989. The former DDR *Länder* [regions of the former East Germany] have twice as much farmland as Bavaria, but only one quarter of its farms.<sup>64</sup> Both conventional and organic fields in the former East Germany are about six times bigger than those in neighbouring regions of former West Germany.<sup>65</sup>

Farm concentration is not necessarily bad. Advantageous economies of scale are obvious. Czech agriculture is – uniquely in the post-Communist countries – a part of the economically highly performing cluster of Northern-Central EU member states, with high yields of crops such as wheat and tomatoes suggesting technological strength.<sup>66</sup> But the structure brings other benefits as well. Czech farms have the highest share of regular non-family employees (i.e. stable, non-seasonal jobs)<sup>67</sup>, as well as full time staff<sup>68</sup>, in their workforce, and the second highest share of managers with full agricultural training<sup>69</sup> in the EU.

But extremely large farms also come with major environmental and social costs. According to the Slovak government's Institute for Environmental Policy, Czechia has the fourth highest mean area of arable crops in the EU.<sup>70</sup> That should have consequences for soil health, clean water and biodiversity – and it does. Larger fields are, *ceteris paribus*, more prone to soil erosion. Also, researchers found that wild hare populations in the Czech countryside range from seven to 17 animals per 100 hectares while the mean population in Austria is 65 per 100 hectares.<sup>71</sup> A survey of farm land along the border revealed that Polish farms host twice as many butterflies and butterfly species as their Czech neighbours.<sup>72</sup>

Furthermore, the mismatch between land and farm ownership creates its own perverse incentives. Research has shown that Czech farmers who operate their own land in landscapes threatened with soil erosion apply both soil-improving crops (e.g. clover, alfalfa, pea) and contour farming (cultivation along contour lines) twice as frequently as those who rent it.<sup>73</sup> Also, slope length in tenants'

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64 Eurostat: <https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

65 Batáry, P., et al. 2017. The former Iron Curtain still drives biodiversity–profit trade-offs in German agriculture. *Nature Ecology & Evolution* 1: 1279–1284.

66 Giannakis, E., Bruggeman, A., 2015. The highly variable economic performance of European agriculture. *Land Use Policy* 45: 26–35.

67 Agriculture, forestry and fishery statistics: 2015 edition. Eurostat, Luxembourg 2015.

68 Agriculture, forestry and fishery statistics: 2017 edition. Eurostat, Luxembourg 2017.

69 Agriculture, forestry and fishery statistics: 2017 edition. Eurostat, Luxembourg 2017.

70 Gális, M., 2020. Na poliach pusto: O škodlivosti rozľahlých monokultúr na ornej pôde a možných riešeniach. Inštitút environmentálnej politiky, Bratislava.

71 Pavliska, P. L., Riegert, J., Grill, S., Šálek, M., 2018. The effect of landscape heterogeneity on population density and habitat preferences of the European hare (*Lepus europaeus*) in contrasting farmlands. *Mammalian Biology* 88: 8–15.

72 Konvicka, M., Benes, J., Polakova, S., 2016. Smaller fields support more butterflies: comparing two neighbouring European countries with a different socioeconomic heritage. *Journal of Insect Conservation* 20: 1113–1118.

73 Sklenicka, P., Janeckova Molnarova, K., Salek, M., Simova, P., Vlasak, P., Sekac, P., Janovska, V., 2015. Owner or tenant: who adopts better soil conservation practices? *Land Use Policy* 47: 253–261.

arable blocks was 2.4 times larger than in farms that own the property. Interestingly, extremely fragmented ownership means that owners lose practical ability to make decisions about their land too. Below a 1.07 hectare threshold, the smaller the arable plots, the larger the resulting blocks that they tended to compose.<sup>74</sup> Researchers estimated that the effect impacts about 40% of Czech farmland.

## WHO IS BENEFITING FROM THE EU FUNDS?

The Czech Republic received significant contributions from the EU Common Agriculture Policy. Since its accession in 2004, the Czech Republic received a total of 15,076,756,283 EUR from the different CAP subsidy programmes. Table 1 shows in more detail the exact figures in the years since accession.

**TABLE 1: EVOLUTION OF PAYMENTS UNDER THE CAP IN THE CZECH REPUBLIC 2004-2019**

	EAGF (IN EUR)	EAFRD (IN EUR)	CAP TOTAL (IN EUR)
<b>2004</b>	-	-	154 635 314,43
<b>2005</b>	-	-	575 866 289,08
<b>2006</b>	-	-	590 407 964,59
<b>2007</b>	422 462 970,97	81 299 185,94	503 762 156,91
<b>2008</b>	515 338 184,59	167 901 972,58	683 240 157,17
<b>2009</b>	644 700 888,64	224 812 894,69	869 513 783,33
<b>2010</b>	659 769 065,04	504 439 634,15	1 164 208 699,19
<b>2011</b>	735 886 846,57	436 543 265,73	1 172 430 112,30
<b>2012</b>	876 519 430,41	365 721 530,57	1 242 240 960,98
<b>2013</b>	766 728 993,39	335 317 411,58	1 102 046 404,97
<b>2014</b>	897 194 254,54	354 586 181,82	1 251 780 436,36
<b>2015</b>	604 485 268,69	431 920 145,66	1 036 405 414,35
<b>2016</b>	904 906 376,05	204 658 365,10	1 109 564 741,15
<b>2017</b>	884 603 864,36	276 233 670,76	1 160 837 535,12
<b>2018</b>	863 709 814,07	327 019 808,58	1 190 729 622,65
<b>2019</b>	861 036 101,64	408 050 588,78	1 269 086 690,42
<b>TOTAL (IN EUR)</b>	<b>9 637 342 058,96</b>	<b>4 118 504 655,94</b>	<b>15 076 756 283,00</b>

74 Sklenicka, P., Janovska, V., Salek, M., Vlasak, J., Molnarova, K., 2014. The Farmland Rental Paradox: extreme land ownership fragmentation as a new form of land degradation. Land Use Policy 38: 587-593.

The large farming sector generally receives more subsidies than small farms in Czechia. Farm businesses' share of subsidies in 2016–2018 came to 75%, while family farms received 25%. Similarly, farms with more than 50 hectares of land (i.e. farms at least three times bigger than the EU average) received 91% of subsidies, while those above five hectares received a 99.7% share (note that farms below five hectares in size are mostly small family vineyards). This is, to a large extent, a natural consequence of the respective segments' share of Czech farmland. Farms above 50 hectares operate, in fact, 94% of farmland. Obviously, some of the big farming companies receive enormous amounts of money (see Table 2). Agrofert, the current prime minister's farming, food and chemistry conglomerate received €63 million in operational subsidies in 2019, with the "bulk of operational subsidies linked to farm production", according to its annual report.<sup>75</sup>

**TABLE 2: SIX LARGEST CZECH RECIPIENTS OF AGRICULTURAL SUBSIDIES IN 2017**

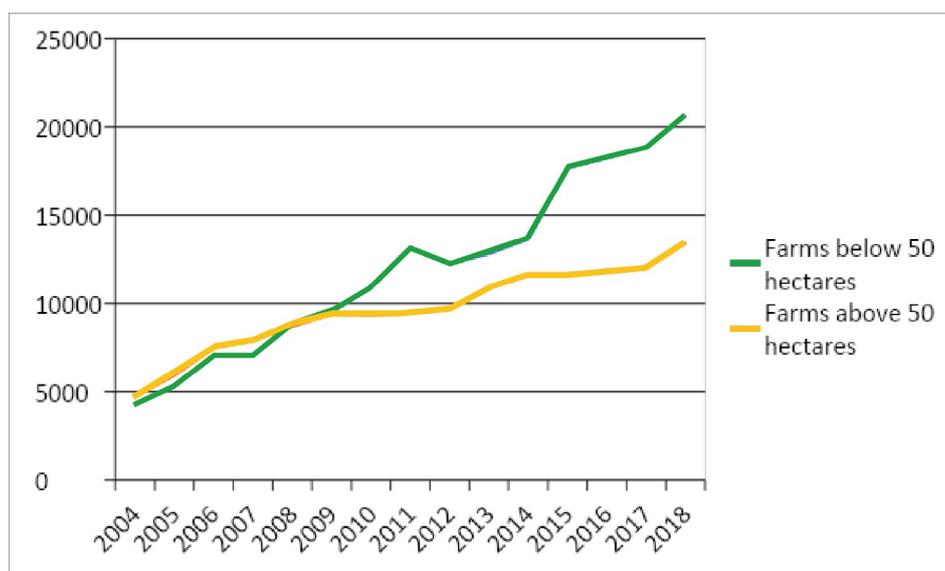
NAME OF THE COMPANY	SUBSIDIES (€ MILLIONS)	WHO IS THIS
AGROFERT	37.7	The prime minister's business
AGRO MĚŘÍN	9.7	Owned by Gabriel Večeřa, a land and farming tycoon. Its operations include meat, arable, fruit and wine businesses, with about 1,000 hectares of organic arable land.
SPOJENÉ FARMY	7.7	An organic meat and dairy company
RABBIT	6.9	Co-owned by Mr. Zdeněk Jandejsek, a former head of the Agrarian Chamber (2017–2020), a farming lobby group, and the current chair of Initiative of Farming and Food Companies, an alliance of big food and farming businesses
SPEARHEAD INT.	6.3	A British farming company
ÚSOVSKO	6.2	Owned by Jiří Milek, former minister of agriculture in the first cabinet of Andrej Babiš (2017–2018) and a deputy chair of Initiative of Farming and Food Companies

Source: Based on SAIF data published in *Hospodářské noviny* daily, December 2018, and the 2017 average € to CZK exchange rate according to [Exchangerates.org.uk](http://Exchangerates.org.uk) (CZK 26.32 to € 1).

75 Agrofert: konsolidovaná výroční zpráva za rok 2019: <https://or.justice.cz/ias/ui/vypis-sl-detail?document=62708502&subjektId=525681&spis=78767>. The amount of subsidies does not include feed-in tariffs for renewable energy. Calculation assumes 2019 mean exchange rate CZK 25.672 for € 1.

More importantly, there are significant differences in subsidies to land ratio. The results are interesting albeit somewhat inconsistent. Over the last few years, there has been a widening gap between family farms and farm businesses, with the former receiving about 20% less subsidies per hectare (see Figure 1). Interestingly, this is not the case with smaller versus big farms *per se*. Farms with land below 50 hectares tend to receive substantially more subsidies per hectare than those above 50 hectares (see Figure 1). The differential has been hovering above 50% in recent years.

**FIGURE 1: SUBSIDIES TO LAND RATIO IN CZK PER HECTARE IN (A) FAMILY FARMS (FARMS OWNED BY A NATURAL PERSON) VS. FARM BUSINESSES (INCORPORATED FARMS), AND (B) FARMS BELOW AND ABOVE 50 HECTARES, 2004-2018 (NOTE THAT THE 2019 EXCHANGE RATE WAS ABOUT CZK 26 PER €).**



Source: FADN Czech Republic data

## EQUAL FOOTING FOR BIG AND SMALL?

Faced with an overwhelming dominance of big farming businesses in the country's agriculture sector, successive Czech governments have chosen to live with the current structure, both incurring its costs and reaping its benefits. They have declined to implement any of the instruments available in CAP direct payment rules to encourage smaller farms.

Measures to reduce direct payments for big farms are (almost) at the EU legal minimum. Czechia is one of the EU member states which do not apply any ceiling on direct payments and it applies only the minimum required reduction of 5% on amounts above €150,000. This practice is not unique in the EU: in fact, 12 more member states also apply the minimum 5% reduction (and, unlike Czechia, six of them allow subtraction of salaries before applying the reduction of payment mechanism, effectively increasing the threshold for 5% reduction above €150,000).<sup>76</sup> Also, only 10 member states introduced a cap on subsidies.<sup>77</sup>

Czechia is one of the 13 member states that chose not to implement the Small Farmers Scheme (SFS).<sup>78</sup> SFS offers simplified income support for farms below 10 hectares, reducing the administrative requirements that are relatively more costly for small farms. The maximum budget per project in the Rural Development Programme (RDP) has increased since 2014 from CZK 30 million to CZK 150 million which, obviously, benefits larger farms.

Czechia has, along with seven more member states, reserved the maximum possible financial allocation (2%) for Young Farmer Payments (YFP).<sup>79</sup> However, the Association of Private Farming (APF), a family farmers' organisation, complains about the complexity of the rules and conditions that young farmers must meet in order to receive the payment, e.g. a very strict control of the production plan. According to APF, approximately one quarter of young farmers do not succeed or do not meet the requirements in reality.

Last but not least, in APF's view, big farms are favoured by insufficient monitoring of ownership structures and related links between different farms which apply for subsidies. In the current system, all applications (including reduction of payments) are based on the identification number of the applicant. However, the government does not check whether various applicants are linked, for instance whether they are part of the same holding company or if they have the same (beneficial) owner. APF believes that this system enables large farm businesses to divide their farms in a way that minimises the payment reductions or maximises bonus points (e.g. specialisation in certain types of production) in RDP grants.<sup>80</sup>

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76 European Commission: Direct payments 2015-2020 Decisions taken by Member States: State of play as from December 2018.

77 *Ibid*

78 *Ibid*

79 *Ibid*

80 Based on an internal document which APF shared with Glopolis

Successive Czech governments have consistently opposed proposals for a mandatory cap on direct payments under the CAP. Similarly, the government has argued that capping should not apply to payments for young farmers, coupled support and eco-schemes. The current agriculture minister, Miroslav Toman, said:

*“With regard to the structure of Czech agriculture, we are able to accept the condition of reducing the basic payment by five percent beyond the ceiling of 150 thousand euros, as it is now. In my opinion, there is great potential for simplification in abandoning the capping mechanism in the case of the introduction of a payment per first hectares, which will effectively and easily support smaller businesses.”<sup>81</sup>*

The government transferred CZK 800 million and another CZK 300 million in 2015–2017 and 2018–2019, respectively, from direct payments to the Rural Development Programme budget.<sup>82</sup> Money was allocated mainly for subsidies for farm investments and agri-environment-climate measures. While the latter is clearly positive, the former may benefit bigger businesses rather than small farms. This transfer was planned by the Ministry of Agriculture from the very beginning of the 2014–2020 budget period.<sup>83</sup> The government has explained the switch by referring to the need to support the ailing livestock production. Money obtained from the reduction of direct payments for larger farms (5% of any SAPS payments beyond €150,000 per farm) were also transferred to RDP and invested in support for farmers in naturally disadvantaged areas (ANC), also a generally positive programme.<sup>84</sup>

## A SOURCE OF OLIGARCHIC STRUCTURES?

Czech agriculture is dominated by large farms and a typical Czech farm would be considered extremely big in many European countries. This obviously has both political and economic implications. The sector is economically dominated by a relatively small number of farmers. Most of the country’s agricultural output simply comes from several thousand farms and they naturally shape both the upstream and downstream market. Large does not necessarily mean very intensive – three Czech *organic* farms, all of them cattle farmers, operate more than 20 square kilometres each<sup>85</sup> – but it usually does.

Equally importantly, large farms are politically powerful. This is partly natural. Big farmers are not just well-connected players in Czech agriculture: they are much of Czech agriculture. Systematic support for large farm businesses and failure to use policy tools available for the preference of small farmers is largely a deliberate political choice. Given some advantages of centralised farming it is also understandable that successive governments have viewed this as a rational policy.

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81 Minister of Agriculture for the Common Agricultural Policy

82 Annual Report of Direct Payments 2018

83 The new Common Agricultural Policy

84 Rural Development Programme 2014–2020 - 6th updated version

85 Ekologické zemědělství v České republice / Organic farming in the Czech Republic: Ročenka/Yearbook 2017. Ministerstvo zemědělství/Bioinstitut, Olomouc 2018.

After an attempt by the first post-1989 agriculture minister to do as much as possible to achieve a widespread restoration of family farming, it has been more or less a policy consensus of all administrations since 1992. Governments might have made proactive policy decisions to increase the share of family farms – and there is a reasonable environmental and social case for such a course – and use policy instruments to develop a kind of affirmative action for smaller farming; nevertheless, they never made that choice.

Given that big farming businesses genuinely dominate Czech agriculture, they also control the sector's main lobby groups. Dissenting voices within the farming community are usually relegated to minority bodies such as the APF, the family farmers' organisation. Therefore, big farming companies generally do not need to resort to exerting undue influence in order to win favourable policies.

However, economic power and political connections provide some major players with avenues that are less readily available in countries with more widely distributed farmland. Historically, the key risk of fraud has been in land rather than subsidies. Restoration of land ownership was effectively a massive change of property, albeit perfectly fair and justifiable, and even minor irregularities would lead to enormous windfalls. Several problematic or suspicious cases involved people with high political connections. Petr Zgarba, a minister of agriculture, had to resign in 2005 when his officials transferred some extremely valuable property near Prague to his acquaintance as a replacement for unviable land restitution.<sup>86</sup> Another minister, Jan Fencel, faced accusations that his family received land from government while he was in office.<sup>87</sup>

The most conspicuous case of a politically connected farmer is the current prime minister, Andrej Babiš. His companies operate, among other assets, 115,000 hectares of land – rather an unusual area even in Czech circumstances – in 53 farms across the country, predominantly under leases.<sup>88</sup> He has obviously benefitted from policy choices that his and previous governments have made. While there has been, so far, no public evidence that he had actually used his influence to obtain a concrete agriculture subsidy, one could reasonably argue that the government failed to manage his conflict of interest or to come up with a sensible solution. Also, as discussed above, the relevant policies had widespread support in policymaking circles and would probably have been done anyway, regardless of the prime minister's interests.

## HOW DOES THE SYSTEM WORK?

Generally speaking, while there are probably some unavoidable cases of outright fraud, it does not appear to be a major issue for the CAP in Czechia. As discussed above, deliberate and not unreasonable – albeit debatable – policy choices rather than irregularities and influence peddling are the key reason for lack of action to support smaller family farms. Nevertheless, fair and regular distribution of money is an obvious issue of considerable public interest. Given the current political

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86 Aktualne.cz: <https://zpravy.aktualne.cz/domaci/stat-prihral-miliardy-spekulantum/r~i:article:161/>

87 iDnes.cz: [https://www.idnes.cz/zpravy/domaci/jan-fencel-kupuje-polnosti.A020220\\_220243\\_domaci\\_pol](https://www.idnes.cz/zpravy/domaci/jan-fencel-kupuje-polnosti.A020220_220243_domaci_pol)

88 Agrofert: Zpráva o společenské odpovědnosti 2018, available at : [https://www.agrofert.cz/sites/default/files/prilohy/csr\\_agrofert\\_2018.pdf](https://www.agrofert.cz/sites/default/files/prilohy/csr_agrofert_2018.pdf)

circumstances, the debate both in Prague and Brussels has naturally focused on the issue of Article 61 or, in other words, of conflict of interest. It has been a subject of heated public as well as legal controversies in Czechia. The European Commission launched an audit in early 2019 to verify the measures implemented by Czech authorities in order to prevent and detect conflicts of interest in relation to agriculture and cohesion subsidies. The audit focused on the implementation of Article 61 as well as the national Conflict of Interest Act.<sup>89</sup>

The draft audit report from the summer of 2019 stated that there was a violation of both Article 61 and of the Czech law in case of payments to Agrofert, the company linked to the prime minister.<sup>90</sup> The auditors concluded that, although Andrej Babiš, the sole owner of Agrofert, transferred the company into two trust funds in February 2017, he is still the beneficial owner of Agrofert holding,<sup>91</sup> and thus in conflict of interest.

In reaction to the audit, the State Agricultural Intervention Fund (SAIF), the government's paying agency responsible for agriculture subsidies (supervised by the Ministry of Agriculture<sup>92</sup>), suspended any payments to Agrofert and Agrotrade, a company owned by close relatives of Miroslav Toman, the current Minister of Agriculture, approved after 9 February 2017. SAIF stated that, although they do not agree with the auditor's conclusion, they suspended the payments as a precautionary measure.<sup>93</sup>

However, in November 2019, SAIF announced that they would restart the payments to both companies<sup>94</sup>. SAIF explained that the decision is based on an external legal analysis which concluded that the national Conflict of Interest Act does not apply to SAIF, so that SAIF has no legal power to

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89 Act n. 159/2006 Sb., in particular in its latest amended version in February 2017, available at <https://www.zakonyprolidi.cz/cs/2006-159>

90 The official text of the report was not published and we therefore rely on information published by Czech media. Several of them had access to the draft audit report. For instance see iRozhlas (06/2019): Audit odtajněn. 'Ovládá dva svěrenské fondy a také skupinu Agrofert,' píše se o Babišovi ve zprávě, available at [https://www.irozhlas.cz/zpravy-domov/andrej-babis-stret-zajmu-sverenske-fondy-agrofert-audit-evropska-komise\\_1905312120\\_och](https://www.irozhlas.cz/zpravy-domov/andrej-babis-stret-zajmu-sverenske-fondy-agrofert-audit-evropska-komise_1905312120_och)

91 Ibid.

92 See website of the Ministry of Agriculture <http://eagri.cz/public/web/mze/ministerstvo-zemedelstvi/o-ministerstvu/podrizene-organizace/#7>

93 Novinky (06/2019): Stát z opatrnosti přestane vyplácet zemědělské dotace Agrofertu, available at <https://www.novinky.cz/domaci/clanek/stat-z-opatrnosti-prestane-vyplacet-dotace-agrofertu-40285606>

94 However, according to Susanne Conze, spokesperson of the European Commission, Czech authorities agreed on 6 December 2018, that, in case of the regional funds which are the subject of the ongoing audit, they will not submit any expenditure on Agrofert Group projects until the end of the audit procedure. In addition, any request for payment submitted to Brussels should include a statement that it does not include expenditure on projects included in the European Commission audit (see iRozhlas (08/2020): Evropská komise: Skupině Agrofert se dotace na projekty s rizikem střetu zájmů neproplácí, available at [https://www.irozhlas.cz/zpravy-domov/evropska-komise-stret-zajmu-babis-agrofert-dotace\\_2008080600\\_kno](https://www.irozhlas.cz/zpravy-domov/evropska-komise-stret-zajmu-babis-agrofert-dotace_2008080600_kno)). In the light of this information, any payments to Agrofert seems to be still highly problematic

withhold the payments.<sup>95</sup> The reasoning behind the conclusion is that SAIF is an independent legal structure and therefore does not distribute subsidies according to the Czech budgetary rules, which the Conflict of Interest Act applies to.<sup>96</sup> Thus, the legal analysis did not address the essence of the problem that is the alleged conflict of interest, but focused on a very formal application of the law.

Regarding application of the Article 61 SAIF published already in October 2018 and its own legal analysis of its application regarding Agrofert and Agrotrade, its statement argues that

*“the Prime Minister...and the Minister of Agriculture...do not participate in the implementation of the EU CAP budget and, in our opinion, do not carry out any other activities listed in Article 61 of the Financial Regulation (preparation, audit, control)”*<sup>97</sup>

However, SAIF currently does not refund any Agrofert projects approved after 2 August 2018, i.e. after Article 61 entered into force. This suggests that SAIF is unsure about its own interpretation of Article 61 and is waiting for the European Commission’s final audit report.<sup>98</sup>

Importantly, the legal battle concerns only payments from RDP. SAIF assumes that the European Commission does not apply Article 61 to direct payments.<sup>99</sup> However, in a response to an official question by the Czech MEP Luděk Niedermayer<sup>100</sup>, the European Commission stated in 2020 that *“Article 61 of Regulation (EU) 2018/1046 applies to the implementation of direct payments”*<sup>101</sup>.

The current conflict of interest debate in Czechia has been closely linked to the issue of beneficial

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- 95 SZIF, tisková zpráva (11/2019): SZIF proplatí Agrofertu část zadržovaných dotací, available at [https://www.szif.cz/cs/CmDocument?rid=%2Fapa\\_anon%2Fcs%2Fzpravy%2Fzpravy\\_o\\_fondu%2Ftiskove\\_zpravy%2F1574931084131.pdf](https://www.szif.cz/cs/CmDocument?rid=%2Fapa_anon%2Fcs%2Fzpravy%2Fzpravy_o_fondu%2Ftiskove_zpravy%2F1574931084131.pdf)
- 96 SZIF, tisková zpráva (12/2019): SZIF neporušuje zákon o střetu zájmů, available at [https://www.szif.cz/cs/CmDocument?rid=/apa\\_anon/cs/zpravy/zpravy\\_o\\_fondu/tiskove\\_zpravy/1576139387392.pdf](https://www.szif.cz/cs/CmDocument?rid=/apa_anon/cs/zpravy/zpravy_o_fondu/tiskove_zpravy/1576139387392.pdf)
- 97 SZIF (2018): Stanovisko SZIF k tvrzenému porušení ustanovení o střetu zájmů v čl. 61 finančního nařízení EU, available at <https://www.mmr.cz/getmedia/55f9ffd2-ec36-4178-88de-d3ef7ffe6335/Priloha-Stret-zajmu-nove-financni-narizeni- stanovisko.pdf.aspx?ext=.pdf>
- 98 According to the latest information, the final version of the audit report could be expected at the beginning of 2021. See here: Česká televize (07/2020): Čekání na evropský audit zemědělských dotací se protáhne. Brusel žádá další podklady, available at <https://ct24.ceskatelevize.cz/domaci/3139718-cekani-na-evropsky-audit-zemedelskych-dotaci-se-protahne-brusel-zada-dalsi-podklady>
- 99 Seznam Zprávy (05/2020): Přijde Agrofert o miliardy na pole? Střet zájmů platí i pro přímé platby, available at <https://www.seznamzpravy.cz/clanek/prijde-agrofert-o-miliardy-na-pole-stret-zajmu-plati-i-pro-prime-platby-106598>
- 100 Evropský parlament (06/2020) – Parlamentní otázky:Právní účinky nového finančního nařízení EU a plnění podmínek akreditace ze strany SZIF, který je v ČR platební agenturou pro zemědělské dotace EU, available at [https://www.europarl.europa.eu/doceo/document/P-9-2020-003297\\_CS.html](https://www.europarl.europa.eu/doceo/document/P-9-2020-003297_CS.html)
- 101 Evropský parlament (07/2020), Answer given by Mr. Wojciechowski on behalf of the European Commission, question reference P-003297/20, available at [https://www.europarl.europa.eu/doceo/document/P-9-2020-003297-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/P-9-2020-003297-ASW_EN.html)

ownership. Since April 2017, a mandatory rule requires that any applicant for RDP grants must provide a sworn statement as to who is the beneficial owner of the legal person applying for a subsidy.<sup>102</sup> SAIF is entitled to require additional documents from the applicant to confirm information provided in the sworn statement. Since August 2020, any applicants for RDP funding must be registered in the register of beneficial owners; otherwise, the application will be rejected. The identity of the beneficial owner is not required for direct payments.

One option to check information provided by the applicants is to cross check the register of beneficial owners<sup>103</sup> created in 2018 under the 4th Anti-Money Laundering Directive (AMLD 4). Under Czech law, the registry of beneficial owners is not accessible to the general public<sup>104</sup> but only to selected institutions<sup>105</sup>. The list of institutions with access to the registry of beneficial owners includes courts, police, financial authorities, banks etc. as well as 'providers of public financial aid'. This means that SAIF has access to the register of beneficial owners. SAIF's staff check whether applicants for RDP funding are listed in the register. However, it is unclear to what extent SAIF uses the register to check for conflicts of interest.

It is interesting to note, that in 2020 the Czech anti-corruption NGOs have heavily criticised<sup>106</sup> Czech government's legislative proposal transposing the 5th Anti-Money Laundering Directive (AMLD5) to the national law. This proposal is currently undergoing the legislative approval and according to the NGOs it should have included a loophole that could be advantageous for the prime minister. If it passed, Mr. Babiš would be considered only the owner of the trust funds to which he transferred his company, Agrofert, but not Agrofert itself.<sup>107</sup> Social Democrats, the junior coalition partner in Mr. Babiš's government, abstained when the cabinet approved the proposal in June 2020.<sup>108</sup> The final text voted by the Czech Parliament in November 2020 and January 2021 seemingly closed this loophole,<sup>109</sup> however serious questions remain about how the accuracy of the beneficial owner information will be ensured in the register.<sup>110</sup>

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102 Ministerstvo zemědělství (2017): Pravidla, kterými se stanovují podmínky pro poskytování dotace na projekty Programu rozvoje venkova na období 2014 – 2020 , available at [https://www.szif.cz/cs/CmDocument?rid=%2Fapa\\_anon%2Fcs%2Fdokumenty\\_ke\\_stazeni%2Fprv2014%2F1507017104884.pdf](https://www.szif.cz/cs/CmDocument?rid=%2Fapa_anon%2Fcs%2Fdokumenty_ke_stazeni%2Fprv2014%2F1507017104884.pdf)

103 The Czech legal word for the registry of beneficial owners is 'evidence'.

104 AMLD4 left public access to the registry of beneficial owners optional for Member States. See, for instance, KPMG (2019) UBO disclosure requirements within the EU, available at <https://assets.kpmg/content/dam/kpmg/xx/pdf/2018/07/gls-transparency-register-web.pdf>

105 See paragraph 118c and 118g/3 of Public Registries of Legal and Physical Persons Act number 304/2013 Sb., available at <https://www.zakonyprolidi.cz/cs/2013-304>.

106 Transparency International ČR (03/2020), available at <https://www.transparency.cz/ti-stale-panuji-pochybnosti-zda-navrh-zakona-nenahrava-sverenskym-fondum/>.

107 Český rozhlas (06/2020) available at [https://www.irozhlas.cz/zpravy-domov/evidence-skutecných-majitelu-stret-zajmu-andrej-babis\\_2006011614\\_zit](https://www.irozhlas.cz/zpravy-domov/evidence-skutecných-majitelu-stret-zajmu-andrej-babis_2006011614_zit)

108 Česká televize (06/2020), available at <https://ct24.ceskatelevize.cz/specialy/koronavirus/3110000-vlada-schvalila-zakon-o-evidenci-skutecných-majitelu-podle-kritiku>

109 See for example: <https://www.transparency.cz/zapise-se-premier-jako-skutecny-majitel-velkopodniku/> or

110 See for example: <https://hlidacipes.org/evidence-skutecných-majitelu-firem-pro-srandu-kralikum-pravnikum-i-babisovi/>

In its October 2020 report on the drawing of subsidies from the European Union, the Czech Supreme Audit Office stated that there is not much support for small- and medium-sized enterprises within the RDP, even in the case of programmes that are directly reserved for them. For instance, one of the RDP 2014-2020 subprogrammes earmarked with CZK 2.8 billion (EUR 112 million) for small- and medium-sized enterprises. However, large enterprises received 70% of the resources from this sub-programme. The Supreme Audit Office concluded that the reason was that the setting of conditions favoured large and financially demanding projects.<sup>111</sup>

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111 Nejvyšší kontrolní úřad (2020): EU Report 2020, Zpráva o finančním řízení prostředků Evropské unie v ČR, page 55.)

# HUNGARY: NO COUNTRY OF ORDINARY MEN

By Leonárd Máriás

In Hungary, after the disintegration of the feudal social structure inherited from the Middle Ages, 'hunger for land' has been a typical feature in Hungarian society and is something which mainly affected the landless rural peasants. In the first half of the twentieth century, agricultural production was characterised by the monopoly of large farms under the control of the most powerful landlords, and more and more frequently, leased by powerful capitalist entrepreneurs.

During the short democratic period after World War II (WWII), efforts were made to provide large parts of society with land ownership via a large-scale distribution programme and to create an agricultural system based on small-scale farming. However, after the Communist takeover in 1948, these attempts were deemed to have failed. At that time, the governing political coalition had no clear plans for the transformation of agriculture and coalition parties were unable to agree on how to reshape the agricultural system. As a result of collectivisation, by 1962, 94 percent of the land became the property of the State or cooperatives and this remained essentially the case until the fall of the Communist regime.<sup>112</sup>

During the transition period in the early 1990s, after more than four decades of State socialism, it was clear that, in the new era, regulations would be based on private property and market economy rules. However, there was a big debate among the newly elected political parties concerning legislation about the privatisation of agricultural lands and assets. The governing political coalition had no clear plans for the transformation of agriculture and were far from agreeing on how to reshape the agricultural system. As a result, the Independent Smallholders, Agrarian Workers and Civic Party<sup>113</sup> became dominant in shaping the two most important regulations, first the so-called 'compensation law' in 1991 and then the 'cooperatives law' adopted a year later. The conception behind the law represented some continuity with the pre-Communist ideas of agricultural reforms

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112 See: Imre, Kovách (2016): *Földek és emberek*, p. 15. <http://real.mtak.hu/73368/1/foldekesemberekkovach.pdf>; and *Magyarország a XX. században – Mezőgazdaság*, <https://mek.oszk.hu/02100/02185/html/292.html>

113 Független Kisgazda-, Földmunkás- és Polgári Párt, FKGP

and advocated for large scale restitution (based on the property structure before the Communist takeover) and supporting small-scale farming.<sup>114</sup>

Based on the law, roughly 1.5-2 million people, i.e. 15-20 percent of the population were entitled to compensation. They were granted so-called 'compensation/restitution vouchers', which allowed them to acquire land in land auctions. In the first round of the auctions up until 1994, 34,000 people who were entitled to compensation had received an average area of 4.4 hectares. This method of restitution led to an extremely fragmented ownership structure coupled with the lack of interest in farming: two thirds of the people compensated were retired or had not formerly been involved in agriculture.<sup>115</sup> These tracts of land were, due to the fact that they were small, not suitable for providing an acceptable standard of living or even for earning a secondary income as it required a lot of effort to cultivate the areas.<sup>116</sup>

In the early 1990s, the price of the land in Hungary and in all countries of the former Socialist block was extremely low compared to the prices in the West. To avoid a 'land rush' from well-off foreign investors from the West, foreigners were banned from purchasing land. To evade this regulation, so-called pocket contracts became widespread, which meant that the land was formally rented from the new Hungarian owners who did not wish to cultivate it, but this was supplemented by an undisclosed, unregistered ('pocket') agreement that the land would be transferred to the tenant after the end of the ban.<sup>117</sup>

To prevent this practice, subsequent governments tried to renew purchase limits and implement favourable pre-emptive and lease rules. This was partly also the aim of the ban on the purchase of land by enterprises, since, by acquiring a stake in a company, foreign private and legal persons could not have been prohibited to become owners of Hungarian land.

In the 1990s, the property structure of Hungarian agriculture became completely transformed, with small farms predominating. The fragmentation of the former State property system, coupled with the scarcity of State subsidies, legal obstacles to raising foreign capital, and the disappearance of the former Council for Mutual Economic Assistance (COMECON) markets, led to a drastic decline in Hungarian agricultural production.<sup>118</sup>

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114 See: Magyarország a XX. században – Kárpótlás, <https://mek.oszk.hu/02100/02185/html/396.html>

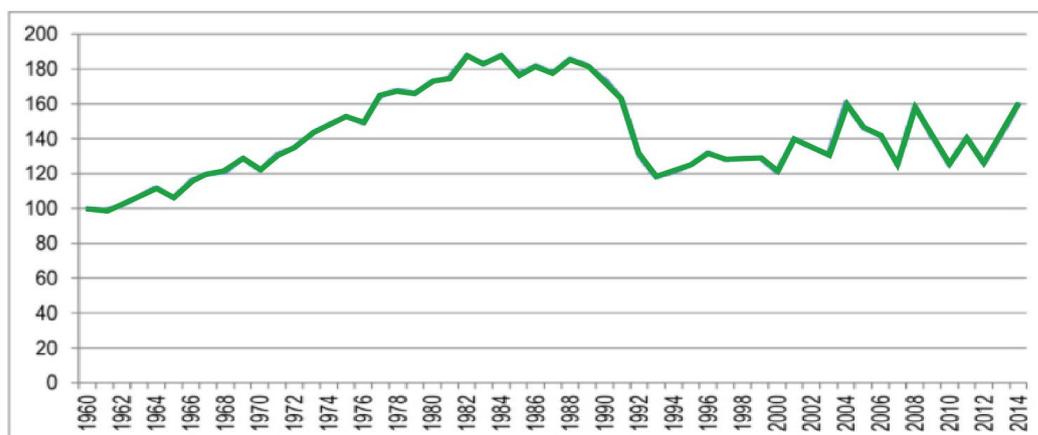
115 Kovách (2016) p. 21.

116 Tárki, TR 2018 <https://g7.hu/kozelet/20181116/a-gazdalkodok-ket-szazaleka-hasznalja-a-magyar-termofoldek-ketharmadat/> <https://tarki.hu/tarsadalmi-riport>

117 See: Némethné Pál, Katalin (2014): *The Impact of the EU Common Agricultural Policy on Hungarian Agriculture – Discussion paper*, Available online at: [https://www.newdirection.online/files/New\\_Direction\\_-\\_The\\_Impact\\_of\\_the\\_EU\\_Common\\_Agricultural\\_Policy\\_on\\_Hungarian\\_Agriculture\\_\(1\).pdf](https://www.newdirection.online/files/New_Direction_-_The_Impact_of_the_EU_Common_Agricultural_Policy_on_Hungarian_Agriculture_(1).pdf) and Némethné Pál, Katalin (2015): *A magyar földkérdés gazdasági nézőpontból*, Available online at: <https://www.gki.hu/wp-content/uploads/2015/12/F%C3%B6ldk%C3%A9rd%C3%A9s.pdf>

118 See: Némethné Pál, Katalin (2015)

**TABLE 1: AGRICULTURAL PRODUCTION IN HUNGARY; VOLUME INDEX 1960=100;**  
SOURCE: KSH – HUNGARIAN CENTRAL STATISTICAL OFFICE



After the fall of the Communist regime, three types of actors were present in the Hungarian agricultural system: corporations and companies; cooperatives; and individual farmers. Along with the gradual privatisation of State-owned lands and the liquidation of cooperatives, the concentration of the property system began as early as the 1990s. The first phase of the process of land concentration was based on the purchase of the so-called compensation notes below par. As described above, many of those entitled to compensation had no intention of engaging in agricultural activity and the size of their land did not allow for profitable farming either. Many therefore sold their compensation notes below face value.<sup>119</sup>

Thus, those with political connections in the previous regime or who held a position in the management of State-owned farming companies had the opportunity to acquire the properties of the former State-owned farms and to manage them profitably. They had sufficient market knowledge and enough of a network to acquire larger estates and assets with bank loans. Consequently, it was primarily these large companies that had political lobbying power, mainly inherited from the former political system. During the Socialist-Liberal government (1994-1998, dominated by the successors of the Hungarian Socialist Workers' Party), 87 per cent of the government party representatives of the Agricultural Committee were also in a management position in some kind of cooperative or large farming company. This provides a clear illustration of how the system worked in practice.<sup>120</sup>

On the other hand, political forces also took advantage of the privatisation of the remaining State-owned lands to build their economic hinterlands. The most infamous case was the so-called 'Dirty Dozen' when the first Fidesz government (1998-2002) sold 12 State-owned farming companies, some of them the former flagships of the Socialist industry, to politically connected buyers, circumventing the provisions of the Privatisation Act on open tenders.<sup>121</sup> The sudden privatisation took

119 Kovách, Imre (2010): *A jelenkori magyar vidéki társadalom szerkezeti és hatalmi változásai* (dissertation submitted to the Hungarian Academy of Sciences) Available online at: [http://real-d.mtak.hu/296/4/kovachimre\\_5\\_Mu.pdf](http://real-d.mtak.hu/296/4/kovachimre_5_Mu.pdf)

120 Kovách, Imre (2010) p. 193.

121 Némethné Pál, Katalin (2015); Ángyán, József (2014): VI. Jelentés a földről. Föld- és birtokpolitika alulnézetből. Available online at: [http://www.kielegyenafold.hu/documents/2014/VI\\_jelentes\\_a\\_foldrol.pdf](http://www.kielegyenafold.hu/documents/2014/VI_jelentes_a_foldrol.pdf); <https://k-monitor.hu/database/cimkek/piszkos-tizenketto-agrarcegek-privatizacioja>

place with a staff and management buyout and the land used by farms was leased to the new owners for 50 years as opposed to the usual 20 years. Soon after, the farms were acquired by private investors, typically the richest Hungarian entrepreneurs, who are still key players in the sector.

Poorly elaborated agricultural development concepts, the peculiarities of legal regulations, economic profitability and significant political interference resulted in the increasing concentration as well as polarisation of the property structure. By the end of the 2000s, 56.7 per cent of the arable land was used by only 0.32 per cent of all farming companies. Farms of over 50 hectares in surface area, which represented two per cent of all farms, accounted for 80 per cent of the arable land, while nearly two-thirds of farms cultivated less than one hectare of land, according to data from the Hungarian Central Statistical Office.<sup>122</sup>

In the pre-accession process, EU subsidy programmes for agriculture in the candidate countries, including the Special Accession Programme for Agricultural and Rural Development (SAPARD), primarily supported large farms. Following the EU accession, CAP payments, mainly the single area payment scheme (SAPS), further contributed to consolidate holdings and land concentration, given that the system in its current form largely favours big farms.

Agricultural subsidies in Hungary reached the EU-15 level by 2010. Given that larger farms yielded substantial profits with relatively little investment thanks to SAPS, large investors with significant financial capital started to launch large-scale agricultural acquisitions in the 2000s. Owning land became a good deal even without efficient production and effective market participation.<sup>123</sup>

Another driver of land acquisitions with investment and speculative purposes was the sustained rise of Hungarian land prices, which were still much lower than in Western European countries.<sup>124</sup>

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122 Kovách (2016) p. 26.; and the sources of his data in the 2010 General Agricultural Survey of the Hungarian Statistical Office: [https://www.ksh.hu/agrarcenzusok\\_amo\\_2010](https://www.ksh.hu/agrarcenzusok_amo_2010)

123 Némethné Pál, Katalin (2015)

124 See: [https://ec.europa.eu/eurostat/databrowser/view/apri\\_lprc/default/map?lang=en](https://ec.europa.eu/eurostat/databrowser/view/apri_lprc/default/map?lang=en)

**TABLE 2: AVERAGE PRICES OF AGRICULTURAL LAND AND LAND LEASING BETWEEN 2009 AND 2018<sup>125</sup>**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>AVERAGE PRICE OF AGRICULTURAL LAND LEASING (EUR/HA/YEAR)</b>	82	87	96	114	121	132	142	158	169	177
<b>AVERAGE PRICE OF AGRICULTURAL LAND (EUR/HA)</b>	1,793	1,834	2,008	2,298	2,535	2,883	3,255	3,741	4,159	4,713

Source: KSH – Hungarian Central Statistical Office - [https://www.ksh.hu/docs/hun/xstadat/xstadat\\_eves/i\\_omf004.html](https://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_omf004.html)

Despite the National Rural Strategy of the second Orbán government (2010-2014), which was adopted in 2012,<sup>126</sup> whose declared goal was to provide local small- and medium-scale landowners with land, land leases were often granted to bidders who were not residents of the affected municipality and had never been engaged in agriculture before. By 2015, hundreds of thousands of hectares of public land were leased out and a large share of it went to investors well-connected to the governing Fidesz party.<sup>127</sup>

Altogether, the political changes of 1989 and the subsequent decades did not result in the decentralisation of land ownership but, on the contrary, the level of land concentration has remained unchanged, while local small- and medium-scale farmers are still unable to acquire land. It has been widely reported that winners had been predetermined and many farmers did not even know about the sales or were discouraged from applying. The result of these phenomena is that 2.5 per cent of Hungarian farmers use two-thirds of the country's arable land, according to the latest edition of the biannual Social Report published by the research institute TÁRKI in 2018.<sup>128</sup>

125 In the entire chapter, the average EUR-HUF exchange rate of the period between 01/01/2010 and 31/10/2020 (1 EUR = 306 HUF) is used, which was calculated based on the data available on the European Central Bank's website. [https://www.ecb.europa.eu/stats/policy\\_and\\_exchange\\_rates/euro\\_reference\\_exchange\\_rates/html/eurofxref-graph-huf.en.html](https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-huf.en.html)

126 [http://www.terport.hu/webfm\\_send/2767](http://www.terport.hu/webfm_send/2767)

127 See also the so-called Ángyán reports, 2012-2020, documents compiled by József Ángyán, former secretary of rural development of the second Orbán government from 2010 to 2012, who has been publishing a series of investigations on the misuse of agricultural funds and land grabs on the national and local level. [http://kielegyenafold.hu/angyan\\_jelentesek.php](http://kielegyenafold.hu/angyan_jelentesek.php).

128 <https://g7.hu/kozelet/20181116/a-gazdalkodok-ket-szazaleka-hasznalja-a-magyar-termofoldek-ketharmadat/>

## WHO IS BENEFITTING FROM THE EU FUNDS?

Since its accession, an impressive amount of agricultural subsidies has been channeled to Hungary, slightly exceeding EUR 21 billion in total. To put this into context, the country's GDP amounted to EUR 146 billion in 2019. Thus, the support received through the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) last year roughly corresponded to 1.25 per cent of the country's GDP.<sup>129</sup> The table below shows the subsidies disbursed to Hungary from the two CAP funds between 2007 and 2019.

### EVOLUTION OF PAYMENTS UNDER THE CAP IN HUNGARY, 2004-2019

**TABLE 3: CAP SUBSIDIES RECEIVED BY HUNGARY (2007-2019)**

	EAGF (IN EUR)	EAFRD (IN EUR)	TOTAL (IN EUR)
2004	-	-	74,500,000
2005	-	-	765,000,000
2006	-	-	811,100,000
2007	473,190,000	267,900,000	741,090,000
2008	559,500,000	148,800,000	708,300,000
2009	972,000,000	497,200,000	1,469,200,000
2010	965,000,000	455,200,000	1,420,200,000
2011	1,053,500,000	432,600,000	1,486,100,000
2012	1,165,400,000	441,300,000	1,606,700,000
2013	1,272,000,000	491,200,000	1,763,200,000
2014	1,336,900,000	550,300,000	1,887,200,000
2015	1,334,000,000	382,000,000	1,716,000,000
2016	1,321,400,000	242,700,000	1,564,100,000
2017	1,312,000,000	196,600,000	1,509,000,000
2018	1,320,000,000	386,000,000	1,706,000,000
2019	1,308,000,000	511,300,000	1,819,300,000
<b>TOTAL (IN EUR)</b>	<b>14,393,290,000</b>	<b>5,003,100,000</b>	<b>21,046,990,000</b>

Source: Agricultural Research Institute [http://repo.aki.gov.hu/315/1/ai\\_2010\\_12.pdf](http://repo.aki.gov.hu/315/1/ai_2010_12.pdf) and European Commission [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/cap-funds\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/cap-funds_en)

129 <https://knoema.com/atlas/Hungary/GDP#:~:text=In%202019%2C%20GDP%20for%20Hungary,average%20annual%20rate%20of%207.64%25.>

More than half of the aid financed through the EAGF fund came in the form of SAPS subsidies:

**TABLE 4: SUBSIDIES UNDER THE SINGLE AREA PAYMENT SCHEME RECEIVED BY HUNGARY (2010-2019)**

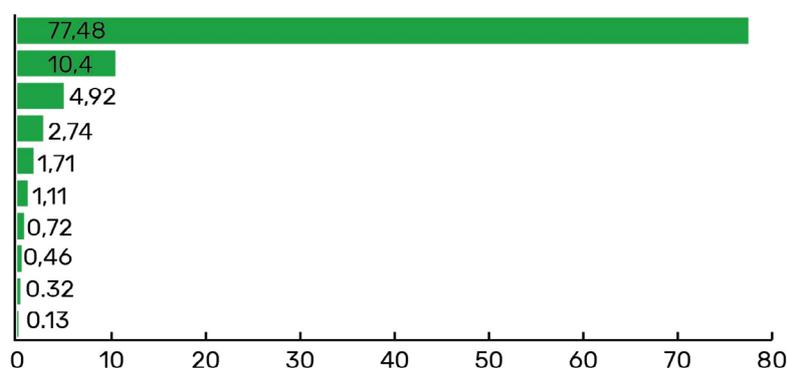
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	TOTAL
<b>SAPS SUBSIDIES IN EUR (MILLION)</b>	830	465	933	1,009	1,100	981	819	517	685	815	8,154

Source: <https://k.blog.hu/2020/10/08/ agrar2020>

Since 2011, K-monitor, the largest non-governmental organisation focussing specifically on revealing the (mis)use of public funds and uncovering State corruption, has been disclosing the results of agricultural tenders.<sup>130</sup> The summaries are based on the data published by the Paying Agency for the CAP, i.e. the Agricultural and Rural Development Agency (ARDA)<sup>131</sup> (which has been part of the Hungarian State Treasury since 2017).<sup>132</sup>

Since 2008, every year, the top decile of beneficiaries (based on property size) has always received more than 70 per cent of the subsidies. In 2019, this rate reached 77.48 per cent, while the lowest 10 per cent, i.e. producers holding the smallest farms, obtained only 0.13 per cent of the subsidies. It is worth noting that this latter value has never been more than 0.5 per cent.<sup>133</sup>

**TABLE 5: DISTRIBUTION OF FUNDS AMONG RECIPIENTS BASED ON PROPERTY SIZE PER DECILE IN 2019**



Source: <https://k.blog.hu/2020/10/08/ agrar2020>

The value of SAPS typically ranged between EUR 110 and 260 per hectare over the period monitored (2008-2019). The list of the main recipients has been relatively stable despite some significant changes. The five largest groups of agricultural holdings received the following amounts in 2014, when the largest share of SAPS funds was allocated to large-scale farms: companies connected to

130 See the infographic at K-monitor: [https://k.blog.hu/2020/10/14/ agrar\\_kereso#more16204594](https://k.blog.hu/2020/10/14/ agrar_kereso#more16204594), and the English version of one of their reports: <https://k.blog.hu/2017/10/29/ agrar>

131 *Mezőgazdasági és Vidékfejlesztési Hivatal* in Hungarian

132 See more on the paying agency in the last sub-chapter.

133 [https://k.blog.hu/2019/08/12/ agrar\\_767](https://k.blog.hu/2019/08/12/ agrar_767)

Sándor Csányi<sup>134</sup>: EUR 6.2 million; Lajos Simicska<sup>135</sup>: EUR 5.55 million; Tamás Leisztinger<sup>136</sup>: EUR 5.2 million; GSD Group<sup>137</sup>: EUR 2.7 million; Bódi family<sup>138</sup>: EUR 1.47 million.<sup>139</sup>

**TABLE 6: TOP 12 BENEFICIARIES OF AGRICULTURAL SUBSIDIES (2011-2019)**

<b>TOP BENEFICIARIES OF AGRICULTURAL SUBSIDIES (2011-2019)</b>	<b>SAPS SUBSIDIES IN EUR (% OF THE TOTAL SUBSIDIES RECEIVED BY THE BENEFICIARY)</b>	<b>GREENING SUBSIDIES IN EUR (% OF THE TOTAL SUBSIDIES RECEIVED BY THE BENEFICIARY)</b>	<b>TOTAL IN EUR (STATE AND EU SUBSIDIES COMBINED)</b>
<b>SÁNDOR CSÁNYI</b>	21,888,449 (30%)	10,691,165 (14%)	73,041,527
<b>LAJOS SIMICSKA</b>	18,137,836 (36%)	4,474,457 (9%)	49,324,689
<b>TAMÁS LEISZTINGER</b>	20,950,690 (49%)	3,621,191 (8%)	42,075,812
<b>BÓDI FAMILY</b>	8,878,274 (29%)	3,425,980 (11%)	29,788,633
<b>GSD GROUP</b>	14,054,323 (56%)	4,514,367 (18%)	24,823,524
<b>LŐRINC MÉSZÁROS</b>	8,093,629 (40%)	6097,609 (30%)	20,025,655
<b>ISTVÁN MÁDL</b>	6,059,781 (39%)	732,699 (5%)	15,291,907
<b>HÓD-MEZŐGAZDA ZRT.</b>	7,274,183 (50%)	742,970 (5%)	14,572,236

- 134 According to the Forbes list, Csányi was the wealthiest Hungarian in 2017 and 2019 and the largest landowner for several years (currently he holds second position). He is the chairman and CEO of the OTP Bank Group, the largest Hungarian bank. He owns the food manufacturer Bonafarm Group as well as KITE Mezőgazdasági Zrt., the largest Hungarian integrator, among others. Source: <https://g7.hu/kozelet/20180815/nyerges-zsolt-lett-az-orszag-masodik-szamu-agrarbaroja/>
- 135 Orbán's most important ally until 2015 (see more about this issue in the sub-chapter "Source of oligarchic structures?") Simicska's most important agricultural holding was Mezort Zrt., which, presumably as a result of his deteriorated relationship with Orbán, was taken over by his business partner Zsolt Nyerges in 2018, and a year later by Lőrinc Mészáros, who subsequently became the largest Hungarian landowner. <https://g7.hu/kozelet/20190516/az-orszag-legnagyobb-foldesura-lett-meszaros-lorinc/>
- 136 In 2015, companies in Leisztinger's interest received the most SAPS subsidies in Hungary, amounting to some EUR 19.6 million. Through his relatives (among others the mother of his that time partner, Kata Tüttő, MEP of the Hungarian Socialist Party MSZP), he held a large network of agricultural businesses. However, in recent years, he sold some of them. <https://k.blog.hu/2016/04/15/agrar2015>
- 137 The group was founded by German and Hungarian businessmen, among others Tibor Zászlós, Vice-President of the Hungarian Chamber of Agriculture and the Hungarian Animal Breeders Association. <https://k.blog.hu/2020/10/08/agrar2020>
- 138 The family is mainly engaged in animal husbandry on about 6,000 hectares in Eastern Hungary.
- 139 <https://g7.hu/kozelet/20180815/nyerges-zsolt-lett-az-orszag-masodik-szamu-agrarbaroja/> It is important to note that, in line with the Land Act adopted in 2013 (Act Nr CXXII of 2013 on the marketing of agricultural and forestry land: <https://net.jogtar.hu/jogszabaly?docid=a1300122.tv>), no-one can hold more than 300 hectares of land and companies are only entitled to lease it. Thus, the figures quoted are based on data aggregated by researchers from different publicly available sources, as well as the company database Opten.

<b>HUNLAND GROUP</b>	884,305 (7%)	458,039 (4%)	11,275,007
<b>FLIER FAMILY</b>	3,929,785 (42%)	2,068,310 (22%)	9,236,341
<b>CLAESSENS FAMILY</b>	2,846,543 (33%)	1,731,364 (20%)	8,428,933
<b>GABRIELLA HELMECZYNÉ PÁL</b>	729,852 (13%)	389,173 (7%)	5,538,884

Source: <https://k.blog.hu/2020/10/08/agarar2020> and <https://www.mvh.allamkincstar.gov.hu/-/tamogatasi-ada-tok-a-bizottsag-908-2014-eu-vegrehajtasi-rendelete-alapjan-publication-of-data-according-to-commission-implementing-regulation-no-908-20>

It should be noted that all the owners of the companies that had been privatised in the last days of the first Orbán government (see the ‘Dirty Dozen’ in the previous sub-chapter) as well as during the Socialist governments led by Péter Medgyessy (2002-2004) and Ferenc Gyurcsány (2004-2006) were among the recipients of the highest amounts (besides the ones mentioned above).

By dividing the SAPS budget with the amount of subsidy per hectare, it is possible to roughly estimate how much land beneficiaries had. Based on these calculations, Sándor Csányi owned 35,000 hectares in 2018,<sup>140</sup> while the companies connected to Zsolt Nyerges<sup>141</sup> amounted to 28,200 hectares.<sup>142</sup> To put this into context, in Hungary, the average farm size was 4.6 hectares in 2010, while the average size of land used by agricultural enterprises reached 322 hectares.

The data show that, although the total value and type of subsidy have changed over the years to some extent (for example, SAPS have decreased somewhat), the percentage distribution of the total agricultural subsidies among small, medium and large holdings shows roughly the same proportions.

In 2014, the government communication shifted as to how to provide a livelihood for more people in the future. Therefore, a special focus was given to support animal husbandry, fruit and vegetable production as well as seed production. In line with EU legislation, the amount of the annual SAPS was reduced by five per cent above the subsidy of EUR 150,000 and subsidies were decreased by 100 per cent in case of subsidies corresponding to 1,200 hectares of farms.

The new rules have undoubtedly decreased the support granted to the largest agricultural conglomerates. However it is still possible to apply for ‘greening’ subsidies, regardless of the size of the area. It is probable that, as a result of this new component, the distribution of agricultural subsidies favouring large farms has not changed significantly, at least in practice.

140 [https://k.blog.hu/2015/03/30/az\\_egy\\_evvel\\_korabbinal\\_jelentosen\\_nagyobb\\_agrartamogatahoz\\_jutottak\\_a\\_csanyi\\_es\\_a\\_simicska\\_cegbiro](https://k.blog.hu/2015/03/30/az_egy_evvel_korabbinal_jelentosen_nagyobb_agrartamogatahoz_jutottak_a_csanyi_es_a_simicska_cegbiro)

141 Zsolt Nyerges was one of the largest recipients of agricultural subsidies in the 2010s and the business partner of Lajos Simicska.

142 [https://k.blog.hu/2015/03/30/az\\_egy\\_evvel\\_korabbinal\\_jelentosen\\_nagyobb\\_agrartamogatahoz\\_jutottak\\_a\\_csanyi\\_es\\_a\\_simicska\\_cegbiro](https://k.blog.hu/2015/03/30/az_egy_evvel_korabbinal_jelentosen_nagyobb_agrartamogatahoz_jutottak_a_csanyi_es_a_simicska_cegbiro)

## EQUAL FOOTING FOR BIG AND SMALL?

Given that the SAPS is not bound to the agricultural product cultivated on the lands, it is much easier to generate income with large-scale, monocultural crop production than with small-scale farming, e.g. with horticulture, vegetables or vine yards, as the large-scale production ensures a stable income with relatively little labour, investment and expertise. To give an example, by owning about 300 hectares of land, a family can make a very decent living from SAPS subsidies alone. Furthermore, land prices have risen steadily in recent years and this trend is expected to continue. As a result, the government has little interest in impeding land concentration but uses subsidies as an instrument to provide its supporters with benefits and further expand its supporter base by facilitating access to the land.<sup>143</sup>

At a rhetorical level, the Orbán governments in power since 2010 have repeatedly taken action against multinational companies and large-scale investors, claiming that they have been defending 'ordinary people', although it is questionable whether practical measures have met these objectives. As an example, the Land Act adopted in 2013 intended to help keep rural populations in rural areas, attract more residents to rural areas and to use the locally generated agricultural income to stimulate job creation.<sup>144</sup> In paragraph 16, the act sets the maximum size of land that can be acquired at 300 hectares. The law therefore limits land acquisition to a maximum of 300 hectares and the size of land estates<sup>145</sup> to a maximum of 1,200 hectares. In practice, however, the law has little effect on restricting land concentration as it does not impose an obligation to aggregate the ownership of the owner's family or assets. A logical consequence of this legal loophole was that bidders acquired areas significantly exceeding 300 hectares in a number of State land lease auctions through their family members and various enterprises, as was set out in the previous sub-chapter.<sup>146</sup>

A further restriction that intends to limit the concentration of CAP subsidies is the EU regulation in force since 2015, according to which SAPS subsidies are not available over 1,200 hectares. As a result, the share of SAPS within the total payments has undoubtedly decreased on paper, but the data show that the amount received by the largest agricultural interest groups remained approximately the same due to other forms of CAP allowances obtained (mainly greening, see Table 6).<sup>147</sup> It can also be observed that large agricultural holdings are split into different companies so that the size of the holding in one holding does not exceed 1,200 hectares, and thus the subsidy can be obtained.<sup>148</sup>

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143 See the interviews with the former State Secretary for Agriculture (in the 1990s), György Raskó: <https://magyar-narancs.hu/kismagyarorszag/haverok-juttatjak-foldhoz-a-havert-rasko-gyorgy-az-uj-foldszabalyozasrol-90084/?orderdir=novekvo>; <https://24.hu/kozelet/2018/08/08/rasko-gyorgy-az-orbani-autokracia-egyenesen-halad-egy-uj-rendszervaltas-fele/>; and Némethné Pál, Katalin: *A magyar földkérdés gazdasági nézőpontból*, 2015. Available online at: <https://www.gki.hu/wp-content/uploads/2015/12/F%C3%B6ldk%C3%A9rd%C3%A9s.pdf>

144 Available online on the National Law Repertory: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=161522](http://njt.hu/cgi_bin/njt_doc.cgi?docid=161522)

145 *Birtokmaximum* in Hungarian

146 Ángyán Reports VI.: [http://www.kiegyenafold.hu/documents/2014/VI\\_jelentes\\_a\\_foldrol.pdf](http://www.kiegyenafold.hu/documents/2014/VI_jelentes_a_foldrol.pdf); <https://index.hu/video/2015/10/13/oligarcha/>

147 <https://k.blog.hu/2016/04/15/agrar2015>

148 Ángyán Reports VI.

Other paragraphs of the 2013 Land Act also reflect the interests of large estates. For instance, according to the first paragraph of the law, the act encompasses all of the country's lands but, at the same time, it introduces separate regulations for agricultural holdings and organisations engaged in integrated agricultural organisation of the production system.<sup>149</sup> Furthermore, the law provided for the establishment of local land committees. However, after the ratification, these were not set up but replaced by the county chambers of agriculture. According to the preliminary concept of the Chamber of Agriculture, they would have been grassroots representative bodies of agricultural workers but, after the promulgation of the law, the elected chamber became a top-down organisation with little democratic legitimacy, representing mainly the interests of large farms.<sup>150</sup>

The land lease tender programme, like the Land Act, intended in principle to provide smallholders and local farmers with land. Nevertheless, as distinct from the government communication, the practice was that typically four to five families per county, often with political connections, received most of the land up for sale. Land was often not sold through tenders but under a contract. Also, 40 percent of the total score that could be obtained was awarded for the 'professional and economic soundness of the management plan', which lacked sound criteria and left ample room for subjectivity in the evaluation phase of the applications.<sup>151</sup>

A further difference with respect to the declared objectives was a condition according to which the bidder's 'agricultural plant centre'<sup>152</sup> had to be local (i.e. located within a 20 km radius from the land) in order to obtain a land lease, but in practice it was sufficient that the bidding company or person designated an arbitrary property before submitting the application. This happened, for example, with the most successful bidders in Borsod-Abaúj-Zemplén County, where, in many cases, unused properties were designated as plant centres. In many cases, not even the 20 km requirement was met.<sup>153</sup>

Another typical example is the case of Fejér County, where Viktor Orbán's friend and currently the largest Hungarian tycoon, Lőrinc Mészáros, together with his brother and daughter, acquired a total of 1,327 hectares of land, and five families with 56 successful bids obtained about half of the lands put up for sale.<sup>154</sup>

As a result of land auctions and the sale of some State lands (called 'Land for Farmers' programme)<sup>155</sup>, the size of farms in Hungary changed as follows: The number of farms above 2,500 hectares fell by about a half and the area of land in use by them fell from 529,000 hectares to 279,000. The number of farms between 1,000 and 2,500 hectares was slightly lower in 2016 than in 2010.

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149 „integrált mezőgazdasági termelés-szervezést végző szervezet” in Hungarian

150 Ágyán Reports VI.

151 Ágyán Reports VI.

152 „mezőgazdasági üzemközpont” in Hungarian

153 Ágyán Reports VI.; <https://magyarnarancs.hu/kismagyarország/piszkos-foldek-felcsttolt-borsodig-itt-vannak-az-uj-nagybirtokosok-86382>

154 Ágyán Reports VI.

155 „Földet a gazdáknak”

Meanwhile, the number of farms between 100 and 1,000 hectares increased from 6,804 to 8,230 and the land they used grew from 1.6 million to more than two million hectares.<sup>156</sup>

Overall, the agricultural policy between 2010 and 2020 has resulted in the further concentration of agricultural holdings despite the goals echoed on several occasions. Consequently, the government's policy has been sharply criticised by those who claim that it does not support local farmers, makes it difficult for foreigners to acquire land and distorts market competition (even after the moratorium on land purchases expired in 2014) and encourages extensive farming. In any case, critics agree that, contrary to its expressed intentions, the government's measures do not support small farms but often support politically loyal large investors and medium-sized family businesses, and frequently channel EU agricultural subsidies in a way that they benefit their political and economic interests.

## A SOURCE OF OLIGARCHIC STRUCTURES?

Before 1990, a process called 'spontaneous privatisation' created an incentive for political and economic interests to converge. The subsequent process of privatisation, which largely took place in the 1990s, was accompanied by numerous scandals and political and economic irregularities and fraud, similar to other post-Communist countries in the region.<sup>157</sup> The second Orbán government, which came to power in 2010, in a political-economic climate determined by the 2008 global financial crisis, began to centralise and redistribute wealth in a way that was unlike previous practices. The declared objective has been to create a 'class of national capitalists', which required the systemic concentration of political and economic capital.

The informal links and networks between powerful political and economic actors can also be detected through the power relations of the key investors in agriculture. Lajos Simicska had been the number one financial strongman of the ruling Fidesz party and Orbán's most important ally since the beginning of his political career. After the 2010 elections, his companies started to become increasingly successful in public tenders<sup>158</sup> and, by 2013, one of the agricultural conglomerates receiving the most subsidies became part of his economic empire. In 2014, agricultural companies connected to Lajos Simicska and his business partner, Zsolt Nyerges, were granted the most agricultural subsidies, amounting to about EUR 19.6 million. In early 2015, however, the relationship between Simicska and Orbán deteriorated as a result of internal debates so much that Simicska lost his position of power, which significantly contributed to the fact that he was forced to give up basically all his agricultural companies after 2018 despite being one of the most successful agricultural investors until that time.<sup>159</sup>

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156 <https://g7.hu/kozelet/20181116/a-gazdalkodok-ket-szazaleka-hasznalja-a-magyar-termofoldek-ketharmadat/> ; [https://www.tarki.hu/sites/default/files/trip2018/248-263\\_Kovach.pdf](https://www.tarki.hu/sites/default/files/trip2018/248-263_Kovach.pdf)

157 [http://icegec-memo.hu/hun/kutatasi\\_projektek/privatization.pdf](http://icegec-memo.hu/hun/kutatasi_projektek/privatization.pdf)

158 [https://atlatszo.blog.hu/2014/01/08/kozgepes\\_kozbeszerzesek\\_2013-ban\\_tul\\_a\\_400\\_milliardon](https://atlatszo.blog.hu/2014/01/08/kozgepes_kozbeszerzesek_2013-ban_tul_a_400_milliardon) ; <https://atlatszo.hu/2013/06/21/jol-fut-a-szeker-hat-epitoipari-ceg-tarolt-a-2013-as-kozbeszerzeseken/> ;

159 [Bekebelezte Mészáros Simicska agrárbirodalmát - K-Blog](#)

At the same time, after the change of government in 2010, the fortune of Lőrinc Mészáros, the mayor of the village Felcsút (where Orbán was raised) between 2011 and 2018, and his close childhood friend began to grow at an astounding pace. Remarkably, this process speeded up significantly after Simicska fell from grace.<sup>160</sup> While Mészáros was not engaged in agriculture in 2010 at all, today he is the largest landowner in the country, controlling 38,000 hectares through the network of his and his family's companies, most prominently Talentis Agro Zrt, which, in 2018, reached EUR 72 million in revenue.<sup>161</sup>

The privatisation of State-owned lands and the renewal of land leases starting in 2011 seemed to lead to strong links being forged between certain economic and political interest groups. The most important investigation, which meticulously documents and reveals these, are the so-called Ángyán Reports, a series of documents published in 14 parts so far. József Ángyán took office as Secretary of State for Agriculture in 2010 but, given that his national rural strategy programme, which focussed on the support of small- and medium-scale farmers and rural job creation, was ignored at the implementation level, he resigned in 2012. Subsequently, he began to investigate the irregularities surrounding land leases and voiced criticism of the new Land Act adopted in 2013. Most notably, although the new law introduced a significant limit in terms of land acquisition of 300 hectares and a significant limit in terms of the size of land estates of 1,200 hectares, it has no actual size-limiting effect as there is no obligation to aggregate properties on the level of the owner, let alone within the family.

In the case of land leases and land privatisation, there have been various examples of a narrower circle of friends and relatives of incumbent politicians outperforming other bidders at calls and auctions. In Csongrád-Csanád County, for instance, the winners of the largest estates included acquaintances and family members of the pro-government politician János Lázár, a former Minister of the Prime Minister's Office. In Fejér County, Lőrinc Mészáros and his family members acquired extensive plots of land while, in Jász-Nagykun-Szolnok County, relatives and acquaintances of officials of the former and current Orbán governments gained significant land holdings.<sup>162</sup>

## HOW DOES THE SYSTEM WORK?

Until 2016, the Agricultural and Rural Development Agency (ARDA) was the paying agency for EU agricultural subsidies in Hungary. In 2017, it was dissolved and its tasks were taken over by the Hungarian State Treasury. At the same time, ARDA's county branches merged into the county government offices. Consequently, the Hungarian State Treasury, which is supervised by the

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160 In 2006, Mészáros' fortune amounted to merely EUR 32,700, in early 2015 to EUR 2.7 million, and in 2016 to EUR 77.7 million (already after Simicska's fall). In 2020, it is estimated at about EUR 1 billion. [https://index.hu/gazdasag/2018/05/07/meszaros\\_lorinc\\_zuckerberg\\_vagyongyaropodas\\_vilag\\_leggazdagabb\\_embere\\_reloaded/](https://index.hu/gazdasag/2018/05/07/meszaros_lorinc_zuckerberg_vagyongyaropodas_vilag_leggazdagabb_embere_reloaded/) and <https://forbes.hu/uzlet/kiesett-a-milliardos-elitklubbol-meszaros-lorinc-117-milliarddal-csokkent-becsult-vagyona/>

161 [Az ország legnagyobb földesura lett Mészáros Lőrinc | G7 - Gazdasági sztorik érthetően](#)

162 Ángyán Reports: [http://kiegyenafold.hu/angyan\\_jelentesek.php](http://kiegyenafold.hu/angyan_jelentesek.php)

Prime Minister's Office, is currently the CAP paying agency and the country's agricultural and rural development support organisation. Since 2017, the State Treasury has been using the Integrated Administration and Control System and, within its framework, it operates the Single Agricultural Customer Registration System and Agricultural Parcel Identification Systems, among others.<sup>163</sup>

The merger of ARDA into the State Treasury, which is directly controlled by the Prime Minister's Office, was in line with the governmental and institutional centralisation trend launched by the second Orbán government in 2010. Official communication emphasised the need to make governance more efficient and reduce bureaucracy, which resulted in merged and reorganised ministries and public organisations. It is indicative that the number of staff of the Prime Minister's Office grew from 93 to 1,432 between 2010 and 2019, while the staff of the Ministry for Justice dropped by half.<sup>164</sup> In parallel to the increasing competences of the Prime Minister's Office, the head of the ministry gained in importance too. Consequently, after Prime Minister Viktor Orbán, the most important position in the power hierarchy since 2010 is the Minister of the Prime Minister's Office (2014-2018 János Lázár; 2018- Gergely Gulyás).

The centralisation of the governance is also illustrated by the fact that, in 2013, the National Development Agency responsible for allocating EU development funds and formulating a development strategy was merged into the Prime Minister's Office, primarily as a result of alleged inefficiency.

Concerning the disbursement of SAPS, one single corruption case in the country was revealed. In 2013, one of the senior officials and three other employees of ARDA were taken into custody on account of suspected undue claims of CAP subsidies. In short, companies and individuals who were not land users, i.e. they did not cultivate the land which should have served as the basis of the payments, tried to obtain area-related aid. The undue claims amounted to approximately EUR 1.3 million, but payments had not been made because of the timely detection of fraud. As a result of the scandal, about 40 per cent of ARDA's senior management staff were replaced in 2013-2014.<sup>165</sup>

Since 2017, the county tender administration and the supervision of the fulfilment of the tender conditions have been performed by the Agricultural and Rural Development Support Department of the county government offices instead of the ARDA's county branches.

In the case of SAPS, the on-the-spot checks are carried out by the Rural Development Support Department in accordance with Act XVII (2007) paragraph 46-54 without prior notice.<sup>166</sup> Individuals selected for the audit are notified by the agency if the examination of documents, registries and records is needed (e.g. in case of greening and production-related subsidies).

Data on the distribution of agricultural subsidies is public information. The most comprehensive

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163 <https://www.mvh.allamkincstar.gov.hu/tevekenysege>

164 [https://www.napi.hu/magyar\\_gazdasag/burokracia-letszam-tarca.694080.html](https://www.napi.hu/magyar_gazdasag/burokracia-letszam-tarca.694080.html)

165 <https://www.agrarszektor.hu/agrarpenzek/agrartamogatasi-botrany-letartoztatások-az-mvh-nal.3278.html> ;  
<https://www.magyaridok.hu/gazdasag/165451-165451/>

166 <https://net.jogtar.hu/jogszabaly?docid=A0700017.TV>

database was compiled by the corruption watchdog K-monitor by using the data of ARDA (until 2016) and the Hungarian State Treasury (since 2017) respectively. This database reveals the recipients, type and amount of EU subsidies for the period from 2013 until 2020, broken down by municipalities and agricultural support entitlements.<sup>167</sup> The information available is completed via further publicly available sources, e.g. the company database Opten to track companies, networks and affiliations of beneficiaries, which in many cases makes it possible to understand who the real recipients of the subsidies are. Nevertheless, it poses a challenge that, in Hungary, asset declarations of relatives remain undisclosed. As a result, identifying beneficiaries would not be possible for the public without time-consuming and knowledge-intensive investigations.

Based on the fraud attempts revealed so far, corruption does not appear to be significant in the distribution phase of EU agricultural subsidies. Instead, political and economic concentration and conflicts of interest seem to appear in the segment of the system where the State leases or sells land.

A remarkable example is the case of the Kishantos Rural Development Centre and Organic Demonstration Farm. In 2013, the National Land Fund Management Organization<sup>168</sup> refused to renew the contract for the land leased for 15 years by the Kishantos Rural Development Center and granted the leasing rights to new tenants who had not previously engaged in any organic farming. The Kishantos organic farm then ceased to exist. The lawsuit that followed the case revealed that the Secretary of State for the Ministry of Rural Development told an untruth when he accused Kishantos of violating the terms of the lease. In late 2016, Kishantos turned to the European Court of Justice. The legal process is ongoing. At the same time, on 8 October 2020, the Pest Central District Court of second instance ruled in favour of Kishantos and Greenpeace in a legal action taken by the Hungarian State claiming, among other things, that these organisations protested unlawfully in 2014.

It is widely alleged that the interests of large landowners with close ties to the government were behind the steps taken against the farm. Furthermore, according to some assumptions, Viktor Orbán's conflict with József Ángyán, the former state secretary for agriculture, who publicly confronted and opposed the government's agricultural policy, may have contributed to the elimination of Kishantos, as Ángyán was one of the founders of the farm.<sup>169</sup>

Kishantos has become an emblematic case for State interference and lack of legal certainty and sets a bad example for those who may have a vision for the decades ahead, which is an indispensable prerequisite for agricultural activity. Most European rural areas have been severely affected by depopulation and the lack of interest in agriculture for decades. Recognising the serious consequences for EU member states and the EU, considerable efforts have been made at the policy level

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167 <https://k.blog.hu/tags/agr%C3%A1rt%C3%A1mogat%C3%A1sok>

168 *Nemzeti Földalapkezelő Szervezet* in Hungarian (It was dissolved and, since 1 July 2019, its tasks were taken over by the National Land Centre - *Nemzeti Földügyi Központ*.)

169 <http://nol.hu/belfold/kishantos-hazudott-a-miniszterium-1533765>; <https://blog.atlatszo.hu/2015/11/politikai-leszamoloknak-eshetett-aldozatul-a-kishantosi-okologiai-mintagazdasag/>; [Ángyán József: Viktor azt mondta, «addig maradsz, ameddig kibírod, nem fogunk mártírt csinálni belőled» | 24.hu](#)

to address this challenge. However, in a climate where the system favours land concentration, large businesses and powerful businessmen who dominate the sector, not even those who might be motivated to be actively involved in the agriculture sector have a chance to do so.

# **SLOVAKIA: (ANTI) CORRUPTION ASPECTS OF THE EU AGRICULTURAL SUBSIDIES**

By Peter Učeň

This text is not a comprehensive account of the development of the system of implementation of EU agricultural subsidies in Slovakia. Therefore – among other things – it does not provide systematic statistical data pertaining to the topic. Also, its treatment and evaluation of mechanisms of disbursement and control of subsidies is far from all-inclusive. Compared to other chapters in this publication, it focuses mainly on the issues of the misuse of the EU agricultural subsidies in Slovakia. While the structural conditions facilitating the fraud in this area are a part of the account, the emphasis is on behavioural aspects, namely motivation and the (lack of) constraints on the fraudulent behaviour.

This is done in the context of the recently renewed interest in the topic in Slovakia's public discourse in last couple of years. While it would be a huge exaggeration to assume the issue is a household topic around the country, its resonance has certainly increased notably since early 2018. And this interest was particularly marked by an emphasis on the issues of corruption and the assistance of the state institutions in abusing the mechanism for the benefit of cronies.

It was the direct consequence of investigations related to the murder of the investigative journalist Ján Kuciak and his fiancée Martina Kušnírová in late February 2018. The shocked public and Kuciak's colleagues from Aktuality.sk investigative journalism outlet were from the beginning convinced that the murder was related to his work. Practically first information provided to press was the recollection by the Slovak-Canadian investigative journalist Ton Nicholson that Kuciak was working on issue related to business of the Italian family business of Vadala and Roda families residing in Eastern Slovakia. A quick finding drawing on advanced draft of Kuciak's article was that their business interests were in agriculture and that they may have been recipients of public subsidies – including EU agricultural ones – in a clear break with the rules of eligibility. Another one was that these two families were the alleged members or collaborators of the Calabrian 'Ndrangheta. Hence the initial imagery of the formidable Italian mobsters syphoning public subsidies in agriculture in Slovakia – and killing Ján Kuciak for uncovering their deeds – came to dominate the public opinion for a short period of time.

All the more sobering was realization – upon further investigation – that “Italian mafia” was most likely not involved in the murder at all, but also in agricultural business it was overshadowed, dependent on and even bullied by the powerful local (Slovak) actors. And that these actors had political cover and assistance from the institutions of state in – among other things – misappropriation of the subsidies from the EU. (This was the fact even though the mentioned families did have a direct personal access to the office of PM Robert Fico and to the Secretary of the Security Council of the country.) From there the investigative work of Aktuality.sk team, Andrej Bán of Denník N daily and other Slovak and international journalists proceeded towards uncovering of the entire system of politically protected mechanisms of directing the money from EU agricultural subsidies to the “carefully selected hands” of the cronies of the ruling political parties.<sup>170</sup>

Andrej Bán and others interviewed private farmers in Eastern just Slovakia do disclose the widespread practices of administrative pressure, blackmail and violence against the farmers when they stood in the way of the politically connected “barons” in their effort to control land and cash on EU subsidies.<sup>171</sup> The first series of stories were about intimidation and direct physical violence against the farmers by the local beneficiaries of the “Klondike of the subsidy agro-business” as Andrej Bán nicknamed the situation in the easternmost parts of Slovakia close to the Ukrainian border. Further investigation provided information on the perpetrators of violence as well as those whom they served – the collectors of EU subsidies. They also disclosed the ways state organs, namely police facilitated covering the investigation of the violence but primarily were instrumental in helping fraudsters to provide false information in order to make them (look) eligible for subsidies. Also, it has been proven that all possible control mechanisms at hand had to be deliberately abandoned to prevent ex-post control of the process – including the local police and courts, which blatantly adjudicated to the advantage of fraudsters. Finally, it has been demonstrated that many of the frauds were enabled by the fact that local administration and power holders were perfectly aware of fraudsters’ political cover from the highest levels of government.

Apparently, the practice of fraudulent claims and payments of EU agricultural subsidies is widespread, even though it differs by region. The topic has been initially elaborated on the Eastern Slovak case in a couple of administrative districts, such as Michalovce, Sobrance and Trebišov. Therefore, many examples of malpractice available are drawing on the local realities. While they are generalizable when it comes to the essence of mechanisms enabling fraud, they may not be that much generalizable in other aspects such as extent of extortion or the aggressiveness of the complicity of state institutions. Another major extortion scheme even better illuminating the systemic nature and political aspects of frauds has been uncovered in 2020 will be explained in the section on control mechanisms.

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170 See the excellent collection of investigative reports by Andrej Bán published in Denník N daily throughout 2018 available at <https://dennikn.sk/tema/agropodvody-na-vychode/>.

171 These developments led to the series of fact-finding missions launched by the relevant institutions of the EU which were focused on investigation of Kuciak’s murder itself, on the issues of the rule of law of the country, but also on the question how well the interests of EU have been taken care of in the area of distribution of EU agricultural subsidies.

# SUBSIDY FRAUDS: EXAMPLES AND BUSINESS MODEL

The perpetrators in the Eastern Slovakia case which launched the public interest in subsidy frauds have been Ľubica Rošková, the (former) Member of Parliament representing the ruling party Direction – Social Democracy (Smer-SD), and her business partner Patrik Šuchta. They together ran a company which collected agricultural subsidies in fraudulent and predatory way. The fraudulent element in their activities was represented by the fact that they claimed subsidies for the land, to which they were not entitled.<sup>172</sup> The predation consisted on use of administrative harassment and physical violence against the farmers who eventually stood in their way. This was supplemented with the blatant advantage they enjoyed among the local police, courts, prosecution and fiscal administration when their victims tried to achieve justice through the institutions of state.

The essence and typical features of the predatory subsidy frauds can be summarized as follows:

- Typically, the *perpetrators were not farmers in the first place and their nominal engagement in agro-business was just the pretext for collecting subsidies*. In this particular case, Ms Rošková was a practicing psychologist. She was also a local functionary of the political party. She has also been rumoured to be contributing to the illicit party funds by money from the subsidy frauds which earned her political protection.
- Often – but not always – *the land owned or – more likely – leased by these nominal companies was acquired by means of the preferential treatment by the State Land Fund (SPF)*. The way SPF has been an indispensable part of the fraud schemes will be illustrated later.
- The *subsidies were claimed based on series of false information provided to the relevant authorities* (while it was secured that these would not check them). Typical ways of deception included:
  - Claiming subsidy for the land which was not eligible for it – it was not used as agricultural land (parking lot covered with asphalt<sup>173</sup>, a local sport airport<sup>174</sup>) or if it was, it was left idle rather than worked on.
  - Claiming subsidy for the land to which the claimant has no legal relationship – it was, for example, land owned by state, municipalities or leased from the state by other farmers or agricultural companies.
  - Claiming subsidies on land to which other subjects has legal relationship and bullying them to compliance in case they objected.
  - Combination of above.

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172 Bán, Andrej. «Smer rozobratý na súciastky: nie Taliani, „naši ľudia“ ovládli východ (reportáž)». *Denník N*, 22 March 2018. <https://dennikn.sk/1073369/smer-rozobraty-na-suciastky-nie-taliani-nasi-ludia-ovladli-vychod-reportaz>

173 Ibidem.

174 Bán, Andrej. «Rošková, Matečná, Hovan: tisíce hektárov pôdy, státisíce eur pre „našich ľudí“ (tretia reportáž z východu)». *Denník N*, 2 May 2018. <https://dennikn.sk/1112124/roskova-matecna-hovan-tisice-hektarov-pody-statisice-eur-pre-nasich-ludi-tretia-reportaz-z-vychodu/>

The privileged information from SPF was indispensable part of the business model. Primarily, fraudsters knew which plots of land were “unclaimed” by other applicants. If the plot was not claimed for a protracted period of time, it was a safe bet to claim subsidies for it.

The multiple claims for the same plot of land – so-called crossing – were the most predatory form of fraud and this fact was also acknowledged by the European Parliament fact-finding mission in December 2018.<sup>175</sup> According to the law when crossing occurred that Agricultural Paying Agency (PPA) withdrew subsidy at all which harmed mostly true farmers working on the land a relying on the income from subsidies rather than the speculators. The latter used this as blackmail against the victims of crossing. The open action against the defying victims included destruction of crops or beating them with the help of the hired security services when they tried to stop predators to enter their land.

## WHO IS BENEFITTING FROM THE EU FUNDS?

In this section some basic data on Slovak land ownership and the distribution of agricultural subsidies will be provided to the extent they contribute to the inquiry in the subsidies-related corruption in the sector. They can be divided into two categories: First group consists of structural parameters, which have largely been inherited from the past (such as fragmented land ownership). The second one is represented by poor rules determining the motivation of participants to act honestly as opposed to the corrupt way (namely legislation and informal practices enabling corruption).

The most important parameters directly or indirectly influencing the opportunity structure for corruption in agricultural subsidies are following:<sup>176</sup>

- **FRAGMENTATION OF THE LAND OWNERSHIP**

Plots are very small as a consequence of the inheritance system according to which inherited land is divided among all heirs. In 2017 there was 99 million registered ownership titles related to the land in the country.<sup>177</sup> Owners, or better said their heirs to which the land was restored after the fall of the Communist regime, have little interests in working on it. Therefore, most of the legal owners do not work on the land but rather lease it. As a consequence, 80 percent of all cultivated land is leased from private owners or the state (see below) rather than owned by those who work on it. Some part of the fragmented plots have been over time concentrated – mostly in the form of leases, but also direct purchases – in the hands of corporate actors.

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175 European Parliament. “Draft report on the fact-finding mission to Slovakia 17-19 December 2018”. 30 January 2019. [https://www.europarl.europa.eu/cmsdata/160405/Mission%20to%20Slovakia\\_Final%20mission%20report\\_2019-02-05.doc.pdf](https://www.europarl.europa.eu/cmsdata/160405/Mission%20to%20Slovakia_Final%20mission%20report_2019-02-05.doc.pdf)

176 Most of these were drawn for the analysis by the Value for Money Department at the Ministry of Finance. “Agriculture and Rural Development Spending Review, Final Report, July 2019”. <https://www.mfsr.sk/sk/financie/hodnota-za-peniaze/revizia-vydavkov/revizia-vydavkov.html>. The Slovak version of the report has been updated till May 2020.

177 Ministry of Finance. “Agriculture and Rural Development Spending Review, Final Report, July 2019”. <https://www.mfsr.sk/sk/financie/hodnota-za-peniaze/revizia-vydavkov/revizia-vydavkov.html>

Currently, of all farms, one fifth of such actors control 90% of all agricultural land. Their average area is 1,200 hectares.<sup>178</sup> Overall, the average size of a farm in Slovakia is around 100 hectares, which is the third largest average among the EU member states.<sup>179</sup>

• **STATE CONTROL OVER THE SUBSTANTIAL AREAS OF THE LAND.**

One fifth of the agricultural land is *de facto* owned – therefore managed -- by state. This is mostly so-called land of the unknown owners – the areas of the previously confiscated land which were not restored to original owners after the fall of the Communist regime, because they were impossible to identify. Such land is managed by the Slovak Land Fund (SPF) which can lease it out to farmers or agricultural companies on time-restricted contracts. It has been widely reported that SPF functionaries collect bribes from the interested farmers and agro-companies to secure long-term leases for them.<sup>180</sup> (The Fund normally leased the land for ten or maximum fifteen years. In the cases suspect of preferential treatment these contracts have been signed for 25 years.)

Also, SPF can cancel contracts with farmers who fail to fulfil the terms of contract and lease the land to other interested parties with a remarkable degree of arbitrariness and very little need for justifying the selection of the new lessees.

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178 Koreň, Marián. "Prístup k pôde, spravodlivé dotácie a inovácie: Odborníci radia štátu ako omladiť agrosektor". *Euraktiv.sk*, 13 November 2019. <https://euractiv.sk/section/ekonomika-a-euro/news/pristup-k-pode-spravodlive-dotacie-a-inovacie-odbornici-radia-statu-ako-omladit-agrosektor>

179 Koreň, Marián. "Poľnohospodári: Stratili sme dve rozpočtové obdobia, štát nevyužil európsku pomoc na získanie mladých farmárov". *Euraktiv.sk*, 5 November 2019. <https://euractiv.sk/section/ekonomika-a-euro/news/polnohospodari-stratili-sme-dve-rozpocetove-obdobia-stat-nevyuzil-europsku-pomoc-na-ziskanie-mladych-farmarov>

180 Haluza, Ivan. "Podozrivé zmluvy na prenájom štátnej pôdy pozemkový fond stiahol". *Denník E*, 27 February 2020. <https://e.dennikn.sk/1776044/podozrive-zmluvy-na-prenajom-statnej-pody-pezemkovy-fond-stiahol>

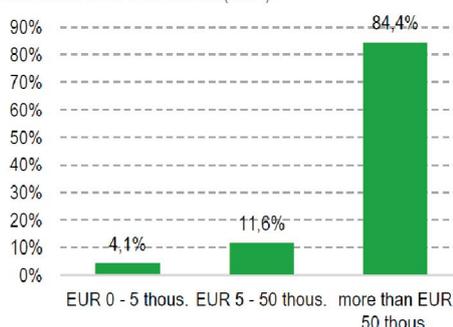
The most significant characteristics of the process of distribution of EU agricultural subsidies include:

- **CONCENTRATION OF SUBSIDIES IN THE HANDS OF LARGE ACTORS**

Majority of direct payments of EU subsidies goes to the large (corporate) farms. Along with the Czech Republic, this is the highest ratio in the EU.

**In Slovakia, large farms receive the most direct payments.** In 2016, up to 84% of direct payments were paid to farms that received more than EUR 50,000 on such support. The average direct payment per hectare was EUR 227. In terms of the size of farms, employment is significantly more evenly distributed. Only 58% of employees work in large farms that farm more than 100 hectares and up to 30% of employees work in small farms managing up to 10 hectares.

Chart 9: Breakdown of direct payments paid classified by the amount of DPs on a farm (2016)



Source: EC, IAP

Chart 10: Share of farms classified by their size in total employment (reflects AWU of the owners and employees, 2013)

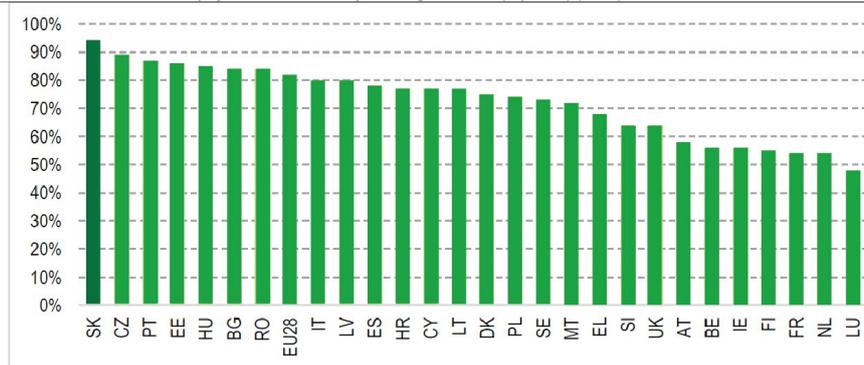


Source: Farm Structure Survey

Source: Agriculture and Rural Development Spending Review, Final Report, July 2019, p. 13.

**In the EU, about 20% of the largest farms receive around 82% of direct payments. In Slovakia, the concentration of direct payments is the largest of all EU Member States.** A fifth of the largest recipients (app. 3,600 farms) receive approximately 94% of all direct payments.

Chart 20: Share of direct payments received by the largest farms (top 20%) (2015)



Source: Agriculture and Rural Development Spending Review, Final Report, July 2019, p. 20.

- **PRESENCE OF THE HARMFUL INCENTIVES IN THE SYSTEM:**

The “EU CAP interfering factor” is that agricultural subsidies are as a rule paid depending on the area of land rather than on production which motivates all actors – including the speculators and fraudsters – to increase the areas. Increasing the areas – thus increasing the subsidies – is a strategy

for creating supplemental incomes for farmers and companies while it fails to motivate them to focus on production increase.

Public agricultural subsidies from the Slovak national budget are very low and compared to the subsidies in other EU member states, the state spends for this purpose one third of what was the average in EU-28. Therefore, the share of the direct (EU) payments on the value added and profit of companies is the highest in the EU.<sup>181</sup> And financial resources originating in CAP represent 91% of expenses in the agricultural sector.<sup>182</sup>

The whole set of harmful incentives encouraging fraud are related to the insufficient rules and negligent behaviour of the relevant institutions, namely SPF and PPA as addressed in the next section. Regarding the latter, the long-term incapacity of the state to address them strongly suggests the lack of political will. It is widely assumed that there have been powerful interests invested in the current arrested development. These would heavily rely on the shortcomings within the system – often considered to be “by design” in order to make a fraud possible to benefit the cronies. In other words, the existing gaps in regulation would not be the results of the lack of understanding or a lack of capacity to implement changes but rather of the lack of interest in doing it. By the same token, a part of the ruling political elites would tolerate misuse of subsidies as long as the perpetrators shared the profits from fraud.

Regarding addressing the known problems by state institutions, when it comes to the structural problems, the topic of the need for the comprehensive land reform has been on the table for some time now. This has also been the major recommendation from the European Parliament missions visiting Slovakia in 2018 in relation to problems with EU agricultural subsidies. Previous government announced in 2019 an initiative leading towards the merging fragmented plots of land into larger ones.<sup>183</sup> The new government opened the possibility of reforming the land inheritance system so that the ownership of land would be passed to only one heir.<sup>184</sup>

Current government also initiated legislative changes regarding the land market. First, Agriculture Ministry have been pushing to increase the rent for the “state land” to make it comparable to leases from private owners. Farmers leasing the land from SPF fiercely challenged the proposed fivefold increase. Minister justified it as equalisation of conditions for those who were “fortunate” to reach

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181 Koreň, Marián. „Menšie dotácie, no ešte menšia produktivita: Slovenský agrosektor zaostáva za zvyškom EÚ“. *Euraktiv.sk*, 15 July 2020. <https://euractiv.sk/section/ekonomika-a-euro/infographic/mensie-dotacie-no-este-mensia-produktivita-slovensky-agrosektor-zaostava-za-zvyskom-eu/>

182 Koreň, Marián. „Poľnohospodári: Stratili sme dve rozpočtové obdobia, štát nevyužil európsku pomoc na získanie mladých farmárov“. *Euraktiv.sk*, 5 November 2019. <https://euractiv.sk/section/ekonomika-a-euro/news/polnohospodari-stratili-sme-dve-rozpocetove-obdobia-stat-nevyuzil-europsku-pomoc-na-ziskanie-mladych-farmarov>

183 Ministry of Agriculture. “Ministerka Matečná: Začína éra scelovania pôdy”. 21 August 2019. <https://www.mpsr.sk/aktualne/ministerka-matecna-zacina-era-scelovania-pody/14629>

184 Haluza, Ivan. “Mičovský ľuďom ukáže, aké nájomy za ich polia sú slušné. Stopnúť chce delenie pôdy medzi všetkých dedičov”. *Denník E*, 6 July 2020. <https://e.dennikn.sk/1957145/micovsky-ludom-ukaze-ake-najmy-za-ich-polia-su-slusne-stopnut-chce-delenie-pody-medzi-vsetkych-dedicov>

to the SPF land and those who rented from private owners.<sup>185</sup>

Another proposed reform aimed at limiting the possibility for the further concentration of land. According to the proposal the private farmers could obtain by purchase no more than 300 hectares while in case of corporate farms it would be 1,200 hectares. The proposal has not been well received by some within the ruling coalition. The big farmers lobbied against it as well, namely *Klub 500*, which is the employer organization of companies with more than 500 employees.<sup>186</sup> (A seeming paradox that the organization largely associating the largest industrial companies lobbied in this issue is easily explained by the fact that many of the largest farms are owned by “industrialists” and private equity groups as just one branch of their business.)

Also, the debate about using the possibility provided by the EU rules to cap the total size of subsidies for recipients has been taking place since 2018. The principle made its way into the government’s programme manifesto but neither the details have been agreed on nor has the change itself been implemented yet. New Minister of Agriculture Ján Mičovský declared the intention to test capping prior to 2023. The most considered cap on total amount of subsidy was half a million euro.<sup>187</sup>

## IMPLEMENTATION - HOW DOES THE SYSTEM WORK

This part of the text deals mainly with the lessons learned from the uncovered cases of fraud and with (attempted) reforms of the faulty rules, harmful incentives and pro-corruption behaviour of the state institutions.

One of such findings is that the boundaries within society between the perception of what is acceptable behaviour and what is not in the area of agricultural subsidies may be blurred.

A major problem with EU agricultural subsidies in (not only) Slovakia is that they are widely perceived as “somebody else’s money” given to local people for free. From the off-record testimonials small-scale cheating on subsidies – such as lying about the area of land which is eligible for subsidies – is rather normal. In these accounts subsidies are conceived as another source of the supplement to farmers’ profits. That is also the part of explanation as to why in 16 years of Slovakia’s membership in the EU the country was not able – and willing – to implement the just and accountable system

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185 Haluza, Ivan. “Mičovský trvá na zvýšení nájomného za štátnu pôdu. Nechce už znevýhodňovať niektorých farmárov”. *Denník E*, 15 July 2020. <https://e.dennikn.sk/1969539/micovsky-trva-na-zvyseni-najmov-za-statnu-podu-nechce-uz-znevychodnoval-niektorych-farmarov>

186 Klub 500. “Štát pripravuje protiústavnú novelu, ktorá môže ohroziť potravinovú sebestačnosť Slovenska”. 26 October 2020. <http://www.klub500.sk/stat-pripravuje-protiustavnu-novelu-ktora-moze-ohrozit-potravinovu-sebestacnost-slovenska>

187 Koreň, Marián. “Malo by Slovensko obmedziť agrodotácie veľkým farmám?”. *Euraktív.sk*, 18 December 2020. <https://euractiv.sk/section/ekonomika-a-euro/news/malo-by-slovensko-obmedzit-agrodotacie-velkym-farmam-anketa>

of distribution of subsidies – the subsidies are seen as an opportunity to use. Therefore, it does not come as a surprise that some of the farmers who became the victims of the predatory fraudsters in Eastern Slovakia – as described in the first section of this text – have at certain point may also have been alleged – by PPA – of cheating on subsidies or – by SPF – of not complying with the terms of land lease.<sup>188</sup>

Another factor is that the mechanisms of control known from other kinds of “EU funds”, primarily ESF and ERDF, are not applied in the direct payments of EU agricultural subsidies. Many EU rules regarding subsidies with potential impact on the possibility of corruption have the character of recommendations for the member states.

### **SLOVAK LAND FUND (SPF)**

As for the Slovak institutions involved, the activities of the SPF are – or better, may easily be considered – a prerequisite for the successful fraud. Primarily, corrupt SPF officials can tip the predatory subsidies collectors on “unclaimed” plots as well as they can lease them the land at the beneficial terms in the first place. But the basic problems with SPF operations is the great degree of arbitrariness in Fund’s management of the “state land”, the lack of criteria for decision as to which farmers receive leases as well as which ones fail the contracted terms and are therefore their contracts are not renewed. Most importantly, the Fund has no deadlines for its decisions so some cases may last months or years while preferential “fast” processing of applications in a couple of weeks may become the source of bribes.

### **AGRICULTURAL PAYING AGENCY (PPA)**

PPA has always been considered the subject of the personal colonization of the institution by political nominees. This was believed to be caused by the fact that the predatory part of the political elites always recognized its corruption potential. (For example, the new head of the Slovak Intelligence Service (SIS) in his recent interview confirmed that SIS has been reporting the irregularities with agricultural subsidies for years. He also noted that having seen SIS files regarding the SAPARD scheme back in 2001, the fact that identical people featured there are also protagonist of the current investigations of frauds (see the “stock-breeder” case below)<sup>189</sup>.

Some control mechanisms have always been in place but from unofficial accounts it is clear that one of the most important contribution to the subsidy corruption was that PPA more often simply chose to not use them.

The serious problem is that claims for subsidies did not need to be substantiated by the proof of ownership or lease of land but just by claimant’s declaration of having used the land for agricultural purposes. The – often intentional – lack of effective control of this eligibility criterion has been at

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188 Odkladal, Martin. “Známy farmár s vplyvom na ministerstve pôdohospodárstva musí vrátiť agrodotácie”. *Aktuality.sk*, 5 November. <https://www.aktuality.sk/clanok/837377/znamy-farmar-a-clovek-s-vplyvom-na-ministra-micovskeho-musi-vratit-agrodotacie/>

189 Kern, Miro. “Riaditeľ SIS: Tajná služba sledovala Kočnera do roku 2012 a zrazu prestala”. *Denník N*, 25 November 2020. <https://dennikn.sk/2157968/riaditel-sis-tajna-sluzba-sledovala-kocnera-do-roku-2012-a-zrazu-prestala>

the heart of most subsidy frauds. In practice, PPA checked the claims only randomly rather than systematically. If the Agency decided to award the lease without any control whatsoever, nothing prevented it from doing it. Finally, if PPA identified a fraudulent request, the recipient had a possibility to simply return the subsidy without any further punishment. The typical response of the former leadership of the Ministry of Agriculture to (increasing) criticism was usually along the lines that Slovak government simply followed that the rules were set up by the EU. The argument often conflated EC recommendations for prescriptions – such as the recommendation of EU to control five percent of subsidy applications. This was in Slovakia conveniently interpreted as the ceiling for the number of controls and the controlling capacities of PPA were designed accordingly.<sup>190</sup>

The technical means of control in the form of the web-based flyover photo maps (called GSAA) have been made available to the farmers only in 2017. There they could check who claimed subsidies on individual plots of land and object multiple claims (or “crossing”). (After the public became aware of the predatory practices in the Eastern Slovakia, the Agency, however, deleted the proof of the multiple claims by the predatory group around Rošková and Šuchta from the GSAA system.<sup>191</sup>) In summer 2020 the system has been notably streamlined and made more user-friendly and more readily available to the applicants and to an extent also to a broader (expert) public.<sup>192</sup>

#### **DEVELOPMENTS FOLLOWING THE 2020 PARLIAMENTARY ELECTIONS**

In April 2020, in a raid code named “stock-breeder”, the police apprehended private equity owner and minor oligarch Martin Kvietik who has been rumoured to be a “power broker” linked to the Slovak National Party (SNS), a junior member of the previous ruling coalition in charge of the agriculture portfolio in the cabinet. (SNS has been nominally nationalist party which was also characterized by the predatory opportunism with which it approached their participations in governments. SNS is actually the only Slovak political party whose two ministers – from 2006-2010 government – have been condemned for the prison time for corruption.) Kvietik has been accused of running the scheme of collecting bribes from the recipients of agricultural subsidies. Kvietik was assumed to contribute the part of the money from bribes to SNS’s illicit party fund.

Later police alleged that political participation of the former ruling party Smer-SD has been realized through the businessman close to the party leadership, Norbert Bödör<sup>193</sup>, as well as the former State Secretary of the Agriculture Ministry and current MP Anton Stredák. In this respect, a Fiscal

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190 Bán, Andrej. «Hnoj na poliach, prehnitý systém a ministerka Matečná». *Denník N*, 24 May 2018. <https://dennikn.sk/1132132/hnoj-na-poliach-prehnity-system-a-ministerka-matecna>

191 Andrej Bán, Andrej. „Hnev a bezmocnosť farmárov po sto dňoch: „naši ľudia“ bašujú naďalej (reportáž)“. *Denník N*, 14 June 2018. <https://dennikn.sk/1152125/hnev-a-bezmocnost-farmarov-po-sto-dnoch-nasi-ludia-basuju-nadalej-reportaz>

192 TASR. „Vlastníci si môžu overiť, kto na ich pôdu poberal agrodotácie“. 6 July 2020. komisia odporúča kontrolovať <https://ekonomika.pravda.sk/krajina/clanok/556518-vlastnici-si-mozu-overit-kto-na-ich-podu-poberal-agrodotacie>

193 Investigators claimed Kvietik divided the bribes with Norbert Bödör – a prominent businessman with infamous influence in the leadership of the national police and prosecution – who was arrested later in July 2020 in other case.

Administration functionary arrested in different case witnessed that the National Criminal Agency (NAKA) reported to Stredák on all matters regarding the (potential) investigations in the agricultural sector. The same witness also confirmed that police, NAKA and Financial Administration closely cooperated on the level of senior management to prevent investigation or information leaks regarding the broader extortion scheme. They have apparently been successful as they prevented any information leaks.<sup>194</sup>

Along Kvietik, the former head of the Agricultural Paying Agency (PPA), Juraj Kožuch, who resigned from his post shortly before, his predecessor Jozef Partika as well as senior official at the Ministry of Agriculture Marek Kodada, have been arrested. These people have been believed to be the most recent “wardens” of the extortion scheme which has been running for years. According to the off-record witnesses the extortionists collected bribes from applicants for the subsidies. They blackmailed recipients with the threat of revocation of awarded subsidies as well as criminal investigation against the uncooperative counterparts. According to investigators, the assistance of PPA and the Ministry was an essential part of the scheme.<sup>195</sup> The case started with a bribery investigation of local PPA officials in the Zvolen region and led to the highest strata of the Agency.<sup>196</sup>

This criminal investigation further illuminated the *systemic character of the subsidy frauds* as well as *the role of SPF and PPA* in their execution:

As for the SPF, in early 2020 – still under the old head - the Fund has been preparing the leases of sizeable plots of land to the new or unknown companies with no record of business in agriculture and with turnovers in the order of thousands of euros. After these preparations were uncovered by the journalists, the contracts were withdrawn.<sup>197</sup> The interim new head has been appointed by the new minister in April 2020 from among the senior management. It was a person who – at least formally – participated in all questionable deals as the head of the Department of Land Transfers and Leases approving the land lease contracts.<sup>198</sup> Also, there were suspicions that the “new” leadership was equally forthcoming to requests of companies related to Ľubica Rošková and Patrik Šuchta – proponents of the suspected fraudulent machinations from Easter Slovakia described before,

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194 Kern, Miro. “NAKA dávala správy o korupcii v agrobiznise Stredákovi zo Smeru, vypovedá Makó”. *Denník N*, 8 December 2020. <https://dennikn.sk/2178288/naka-davala-spravy-o-korupcii-v-agrobiznise-stredakovi-zo-smeru-vypoveda-mako>

<https://dennikn.sk/2178288/naka-davala-spravy-o-korupcii-v-agrobiznise-stredakovi-zo-smeru-vypoveda-mako>

195 The bribing scheme, however, extended the Agency and was implemented in a number of areas under the auspices of the Agriculture Ministry. Also, its reach not only included EU agricultural subsidies but also the lease of the land from the Slovak Land Fund (SPF) as well as the access to the cheaper timber from the state-owned forests.

196 Šnidl, Vladimír. “Polícia zadržala pre korupciu Martina Kvietika, vplyvného podnikateľa zo zákulisia SNS”. *Denník N*, 23 April 2020. <https://dennikn.sk/1866775/policia-zadrzala-martina-kvietika-vplyvneho-podnikateľa-zo-zakulisia-sns>

197 Haluza, Ivan. „Podozrivé zmluvy na prenájom štátnej pôdy pozemkový fond stiahol“. *Denník E*, 27 February 2020. <https://e.dennikn.sk/1776044/podozrive-zmluvy-na-prenajom-statnej-pody-pozemkovy-fond-stiahol>

198 Odkladal, Martin. „Expolicajt sa vyhrádal farmárom, jeho bývalá firma odmieta vrátiť pozemky štátu“. *Aktuality.sk*, 5 November 2020. <https://www.aktuality.sk/clanok/827039/expolicajt-sa-vyhradal-farmarom-jeho-byvala-firma-odmieta-vratit-pozemky-statu>

who in the meantime limited their activities in agriculture and returned the suspected land to the Fund as the police investigation against them proceeded.<sup>199</sup>

In October 2020 a number of regional officials of the Fund have been arrested for bribe-taking in a number of regions, namely in Poprad. Also a prominent lawyer, Ján Gajan, has been accused of complicity in this corruption – he allegedly misused privileged information from the Fund which he obtained while he had been hired by the previous leadership as a legal counsel overseeing the process of land restitution. (He has also been extensively cooperating with one of the proponents of the “stock-breeder” case – Martin Kvietik – in his legal practice.)

Police investigators concluded that he had a “dominant influence” on the leading of the Fund under the old government.<sup>200</sup> The new head of the Fund argued the investigation was on their motion as they contacted police when they learned about irregularities.<sup>201</sup>

When it comes to PPA, there are little doubts that it has been a part of the corrupt system of manipulation with eligibility of claims for EU agricultural subsidies under the previous government of Smer-SD (2016-2020). While the new government tried to reform the institution and clear its profile, the results are yet to present themselves.

The former director of PPA Juraj Kozuch resigned in March 2020 shortly after he announced the record-high performance of the Agency in 2019 and the fact that OLAF investigation in PPA practices did not reveal any shortcoming or malpractices.<sup>202</sup> (By resignation he actually pre-empted his recall by the new minister by days and he returned to his previous post of the head of the Department of Direct Payments at the Agency.) Few days later he has been arrested as a part of the “stock-breeder” investigation which unequivocally stated the complicity of the Agency in the organized series of frauds regarding the agricultural subsidies. These two facts can be reconciled only if we accept that the review by OLAF was formalistic and exclusively focused on the processes and formal aspects of the subsidies management, which – obviously – were without major flaws.

The new government, namely Minister Ján Mičovský, appointed a new head of the Agency, Tibor Guniš, with the previous experience in Agrarmarkt Austria, the Austrian equivalent of PPA. (He was, however, also coming from an IT company which was suspected of “too cosy” relationship

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199 Ibidem.

200 Benedikovičová, Mária. „Správal sa ako zemepán. Svedkovia rozprávajú o nehoráznej korupcii pri pozemkoch pod Tatrami“. *Denník N*, 4 November 2020. <https://dennikn.sk/2124805/spraval-sa-ako-zemepan-svedkovia-rozpravaju-o-nehoraznej-korupcii-pri-pozemkoch-pod-tatrami>

201 Kellöová, Laura and Turček, Martin. “Korupcia na pozemkovom fonde: NAKA zadržala známeho advokáta Jána Gajana”. *Aktuality.sk*, 20 November 2020. <https://www.aktuality.sk/clanok/832235/korupcia-na-pozemkovom-fonde-naka-zadrzala-znameho-advokata-jana-gajana-aj-funkcionara-v-poprade-tudaj-SPF>

202 Gabrižová, Zuzana. “Šéf poľnohospodárskej platobnej agentúry odišiel po správe, že OLAF nenašiel pochybenia”. *Euraktiv.sk*, 1 April 2020. <https://euractiv.sk/section/ekonomika-a-euro/news/sef-polnohospodarskej-platobnej-agentury-odisiel-po-sprave-ze-olaf-nenasiel-pochybenia>

with the agricultural sector, including PPA, as a major provider of IT solutions.)<sup>203</sup> Guniš, however, resigned after four months in the position. His resignation was a part of a series of departures of the assumed “reform team” around Minister Mičovský when some of the departed functionaries expressed the doubts about his competence and will to implement reforms in the sector. Guniš himself, however, claimed the health and family reasons for the decision.

In July 2020 the Supreme Office of Control (NKÚ) published its findings regarding the work of the Agency.<sup>204</sup> It concluded that “Slovak authorities failed to use all possibilities how to secure efficient and transparent management of 450 million EUR earmarked for the farmers”. NKÚ stated that PPA suffers from the lack of transparency in the management of the direct subsidies. This lack was, however, in part attributable to insufficient legislation which made it possible. Particularly, NKÚ pointed out the lack of the systematic control of applicants and recipients of subsidies, was also due to missing capacities on the side of the Agency. In relation to the possible corruption, NKÚ again emphasized the missing obligation on the side of claimants to prove the legal relationship to the land for which they claim the subsidies. Overall, the Office stated the “high degree of risk” present in the process.

The search for the new director has been prolonged – admittedly also because of preoccupation of government with “Covid-19 governance” and will not be resolved before spring 2021.

First unofficial reports suggested that the candidate for the new head would be a former manager of Deloitte in Slovakia. The auditing company has rich contractual relationships in the state institutions in agricultural sector and has been criticized by some as “the part of the problem” as it also audited the direct payments by PPA.<sup>205</sup> The most recent rumours feature two other candidates under consideration, namely the senior manager of the Czech equivalent of PPA and the senior banker specialized in customers from the agricultural business.<sup>206</sup>

In the meantime, the acting head of the Agency, Jaroslav Jánoš, has allegedly been facing tumultuous relationship with the Agency staff. Jánoš, recently recruited head of PPA’s Internal Control and Fraud Prevention Department, comes from the leadership of the “We are Fed Up!” political

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203 Haluza, Ivan. „Pôdohospodársku platobnú agentúru bude viesť Guniš. Pôsobil v rakúskej agentúre, ale aj v kontroverznej IT-firme“. *Denník E*, 15 May 2020. <https://e.dennikn.sk/1893919/podohospodarsku-platobnu-agenturu-bude-viest-gunis-posobil-v-rakuskej-agenture-ale-aj-v-kontroverznej-it-firme>

204 Najvyšší kontrolný úrad SR. „Priama podpora v poľnohospodárstve bez cielenej kontroly a s dierami v legislatíve“. 7 January 2021. [https://www.nku.gov.sk/274/-/asset\\_publisher/btKsqLuN1UCZ/content/priama-podpora-v-polnohospoarstve-bez-cielenej-kontroly-a-s-dierami-v-legislative](https://www.nku.gov.sk/274/-/asset_publisher/btKsqLuN1UCZ/content/priama-podpora-v-polnohospoarstve-bez-cielenej-kontroly-a-s-dierami-v-legislative). (English summary: [https://www.nku.gov.sk/web/sao/news/-/asset\\_publisher/FaxZbYV7Oqlp/content/direct-aid-in-agriculture-without-targeted-control-with-holes-in-legislation](https://www.nku.gov.sk/web/sao/news/-/asset_publisher/FaxZbYV7Oqlp/content/direct-aid-in-agriculture-without-targeted-control-with-holes-in-legislation))

205 Potocký, Erik. “Nastal čas nahradiť Pôdohospodársku platobnú agentúru niečím novým”. *Postoj*, 18 November 2020. <https://www.postoj.sk/65869/nastal-cas-nahradit-podohospodarsku-platobnu-agenturu-niecim-novym>

206 Haluza, Ivan. “Ako sa Mičovský mylil, keď zveril kontrolu predákovi farmárskych protestov. A nejde len o chaos”. *Denník E*, 13 January 2021. <https://e.dennikn.sk/2223717/ako-sa-micovsky-mylil-ked-zveril-kontrolu-predakovi-farmarskych-protestov-a-nejde-len-o-chaos>

party. (This was created by the rebellious Eastern Slovakian farmer's – often victims of the government-covered schemes uncovered in investigation of Kuciak's murder – in 2019, after radicalized farmers concluded the government of Peter Pellegrini was not going to take grievances seriously. The party failed in 2020 parliamentary elections, but a number of its leading cadres obtained posts in the new line-up of the Ministry of Agriculture.)<sup>207</sup>

Jánoš has been appointed acting head in December 2020 and from the beginning faced the anonymous reprimands from the Agency staff regarding his alleged lack of competence and conflict of interests. Bearing in mind that “revenge of old structures” may be the case; it is useful to know that collaborators insinuate that Jánoš exhibits intense interests in open cases of the Agency against the number of his peers from the leadership of the farmers' party. Also one of his own former companies has in the past been fined for misuse of EU subsidies and the fine has not been paid yet. Finally, anonymous critics claim that Jánoš – just like predators he criticized – has not been a farmer in the first place but rather a construction entrepreneur using agricultural land as the supplemental income. Jánoš refused all the accusations and Minister Mičovský publically supported him. In the meantime, in January 2021 the Ministry announced that the selection procedure did not produce the new Agency head as all – five – candidates failed to fulfil the set conditions. He announced another round of selection to be held soon and refused the political allegations that failed recruitment be the deliberate attempt to keep Jánoš in position.<sup>208</sup>

In January 2021 the excerpts from the forensic audit of PPA by PwC have been leaked to the press by the PPA staff according to which the various shortcomings have been emphasised.

These included insufficient detection of the conflict of interest of the agency staff and their relationships to applicants and recipients of subsidies, their lack of cooperation with police and courts, the lack of capacities for control of applicants' claims for subsidies, and the neglect to find a solution for the problem of multiple claims on the same plots of land (“crossing”). (Crossing is the good indicator of the possibility of the predatory fraud. The audit drew attention to the fact that the number of crossings was consistently high – 1,249 cases in 2019 and 1,205 in 2020.) Insiders from PPA also revealed the alleged backup plan that in case PPA fails to defend its accreditation with the European Commission, the distribution of EU subsidies might be outsourced to the Czech and/or Austrian counterparts.<sup>209</sup>

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207 Haluza, Ivan. “Oravcova strana Máme toho dost vo voľbách neuspela, ale na ministerstve pôdohospodárstva je čoraz silnejšia”. *Denník E*, 4 October 2020. <https://e.dennikn.sk/2068850/oravcova-strana-mame-toho-dost-vo-volbach-neuspela-ale-na-ministerstve-podohospodarstva-je-coraz-silnejšia>

208 TASR. „Mičovský odmieta obvinenia z machinácie v PPA, za Jánošom si stojí“. 24 January 2021. <https://www.teraz.sk/slovensko/micovsky-odmieta-obvinenia-z-machinac/522617-clanok.html>

209 Haluza, Ivan. «Prečo sa udial Dobytkár? Platobná agentúra nesleduje ani len väzby úradníkov na dotované podniky». *Denník E*, 4 January 2021. <https://e.dennikn.sk/2210647/preco-sa-udial-dobytkar-platobna-agentura-nesleduje-ani-len-vazby-uradnikov-na-dotovane-podniky>

By means of conclusion, the fact is that fraud in EU agricultural subsidies – at least in its blatant and predatory forms – has been discouraged by prosecution of the Eastern Slovakian violent schemes as well as of the “stock-breeder” series of arrests. There has been, however, insufficient progress in systemic (legislative) and technical measures limiting the space for fraud. In fact, the whole “infrastructure of fraud” as well as the most of the structure of opportunities is still largely in place – what has slightly changed are (dis)incentives.

As a consequence, the grave cases of deceit can easily re-occur should the political representation tolerating them for their cronies get to power.

The Ministry of Agriculture has been unsure as to when the Strategic Plan for Common Agricultural Policy –which each member state needs to prepare in order to receive EU agricultural subsidies – will be available. Uncertainty remains not only about deadlines but also regarding the openness and inclusiveness of the process.<sup>210</sup>

In January 2021, OLAF issued a press release on the conclusion of its investigations of direct payments of subsidies in Slovakia. It concluded that the most pressing problems investigation uncovered were related to the insufficient controls of the eligibility claims by the applicants by PPA. OLAF concluded that the applicants’ right to use the land was checked only in cases of overlapping claims (which consequently resulted in denying subsidies to all “crossing applicants”). OLAF also concluded the need for increased transparency and legal certainty in state’s management – including leasing – of the land of unknown owners (by SPF).<sup>211</sup>

The most important takeaway from the Slovak case is that in order to get an accurate picture of the effective use of EU agricultural subsidies, European Commission should consider increasing the weight of the political aspect of its evaluation processes. This should happen even at the expense of the formal(istic) aspects as for the skilled bureaucrats in the recipient countries it is not a problem to submit documents which formally comply with all requirements of EC. This has also been the case in Slovakia for a long time. The blatant problems with misuse of EU agricultural subsidies have only come to the EU’s attention after they have been politicized domestically. Since the murder of Jan Kuciak in 2018 the European Parliament has been the main source of the political insight into the problem. The EC should, however, develop its own version of the monitoring the political impact of EU subsidies within or outside of the OLAF mechanism. One possibility is to design it in the vein of the recently introduced –and admittedly imperfect – annual report of the rule of law.

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210 Koreň, Marián. „Mičovského rezort stále skrýva kľúčové dokumenty pre budúce agrotácie z EÚ“. *Euractiv.sk*, 7 January 2021. <https://euractiv.sk/section/ekonomika-a-euro/news/micovskeho-rezort-stale-skryva-klucove-dokumenty-pre-buduce-agrotacie-z-eu>

211 European Commission Anti-Fraud Office (OLAF). “OLAF closes cases on EU agricultural funds in Slovakia”. 21 January 2021. [https://ec.europa.eu/anti-fraud/media-corner/news/21-01-2021/olaf-closes-cases-eu-agricultural-funds-slovakia\\_en](https://ec.europa.eu/anti-fraud/media-corner/news/21-01-2021/olaf-closes-cases-eu-agricultural-funds-slovakia_en)

# ROMANIA: IN THE SHADOW OF SILENT INSTITUTIONS

By Andrei Rizea & Alina Calistru

Agriculture is a sensitive topic in Romania, especially because of the fierce competition between farmers, who are trying to keep pace with private investors and foreign landowners. The problems with the ownership of the land have their roots in the Communist era, when the State and the Romanian Communist Party seized all the private property as part of the process of nationalisation. During the Communist regime, the agriculture area was collectivised and the land has been worked by peasants, organised in the so-called Agricultural Production Cooperatives (CAP). According to the law of that time, the lands from the Agricultural Production Cooperatives were the common property of peasants but, in practice, the actual owner was the State, which managed the land. Moreover, as a measure against peasants who opposed these agricultural cooperatives, the Communist State relocated them to urban areas to work in factories and to keep them quiet.

Shortly after the collapse of the Communist regime in 1990, the Romanian peasants demanded their lands back and, in 1991, the restitution process started. This process has been difficult and this applies up to the present time, while the transparency of it has been permanently lacking, which created difficulties for people in the process of recovering their lands. The limitation of the process was also caused by ambiguous and unclear laws, such an example being the so-called *Law 18*<sup>212</sup>. The normative act stated that the restoration of land ownership was limited to a maximum of only 10 hectares. However, the responsibility for implementation of the restoration was given to local commissions, which have been questioned for lack of transparency and allegations of corruption.<sup>213</sup> For this reason, here we only talk about a partial restoration of the previously land-owning titles in Romania and from this process; new opportunities emerged for different investors. In the 1990s, different investors began to lease the unclaimed agricultural land from the State or bought it at very low prices from those who could not afford to work the fields. In the early 2000s, they established big agro companies that continued to buy and lease agricultural land. Taking advantage of the closed agricultural market, with few investors with financial power on the stage, they obtained a sort of monopoly.

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212 <http://legislatie.just.ro/Public/DetaliiDocument/1459>.

213 <https://www.digi24.ro/special/campanii-digi24/1990-anul-0/1990-anul-0-restituirea-proprietatilor-facuta-doar-pe-jumatate-cum-s-a-ajuns-la-plangeri-la-cedo-si-anchete-dna-441267>.

After a decade, a new legal framework was adopted. The new regulation provided that the restoration of lands shall increase to 50 hectares per family, but simultaneously the State has been no longer obliged to return the original land titles and land areas to owners.<sup>214</sup> More than 11 different legal regulations were adopted in subsequent years. However, the problematic local commissions remained the only instruments through which the restoration of the land was processed.<sup>215</sup> In 2002, *Law 400*<sup>216</sup> stipulated that previous landowners from a list from 1945 can receive back their properties.<sup>217</sup> Therefore, local commissions started to take into account previous land titles and the actual owners discovered that the areas to be returned are much larger than they originally thought<sup>218</sup>. As a result of that, some of the landowners were assigned more land than they owned while others received nothing. It is still very unclear how exactly the current big landowners obtained their vast agricultural areas.

The lack of reforms in the agriculture sector and lengthy restitution procedures even led to legal proceedings addressed by full right owners to the European Court of Human Rights (ECHR), claiming their lands to be nationalised by the authoritarian regime because the State only gave some parts of their lands back to them. Such cases are *Străin and Others v. Romania* and *Maria Atanasiu and Others v. Romania*, with the decisions still pending under the supervision of ECHR.<sup>219</sup> It is interesting to note that, between 1959 and 2019, Romania had a total of 1,496 cases filed to the ECHR, of which 482 (32%) have been addressing the problem of protection of private property.<sup>220</sup>

A significant problem that Romania faces is the issue of lack of information in cadastral plans, which were officially established very late, only in 2015<sup>221</sup>. The National Agency for Cadastre and Real Estate Advertising (ANCPI) oversees this operation and covers an approximate number of 40 million properties in Romania. From this number only 40% (16 million) were centralised from 2005 to 16 September 2020.<sup>222</sup> The former director of the agency in 2019, Mr. Radu Codruț-Ștefănescu, mentioned in an interview that, out of 9.5 million hectares of subsidised land, more than 8.2 million (87%) were cadastral.<sup>223</sup> Nevertheless, according to the Ministry of Agriculture, the

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214 <http://legislatie.just.ro/Public/DetaliiDocument/20557>.

215 <https://www.digi24.ro/special/campanii-digi24/1990-anul-0/1990-anul-0-restituirea-proprietatilor-facuta-doar-pe-jumatate-cum-s-a-ajuns-la-plangeri-la-cedo-si-anchete-dna-441267>.

216 [http://www.cdep.ro/pls/legis/legis\\_pck.htm\\_act?ida=38215](http://www.cdep.ro/pls/legis/legis_pck.htm_act?ida=38215).

217 <https://www.digi24.ro/special/campanii-digi24/1990-anul-0/1990-anul-0-restituirea-proprietatilor-facuta-doar-pe-jumatate-cum-s-a-ajuns-la-plangeri-la-cedo-si-anchete-dna-441267>.

218 <https://www.zf.ro/zf-news/anrp-a-sesizat-penal-retrocedari-ilegale-de-4-500-de-hectare-de-teren-agricol-si-forestier-13932108>

219 <https://rm.coe.int/168070975f>, page 3.

220 [https://www.echr.coe.int/Documents/Overview\\_19592019\\_ENG.pdf](https://www.echr.coe.int/Documents/Overview_19592019_ENG.pdf), ECHR Overview 1959-2019, page 6.

221 The cadastral plans of Romania are still incomplete, and we could not cross check them to see who are the owners or how much agricultural land they own.

222 <http://www.ancpi.ro/>

223 <https://www.agerpres.ro/economic-intern/2019/09/16/interviu-stefanescu-ancpi-procentul-suprafetei-agricole-care-nu-face-obiectul-programului-national-de-cadastru-este-in-prezent-mai-mic-de-13--370248>

agriculture area of Romania is around 14.6 million. Therefore, 5.1 million hectares of unsubsidised land are not subject to a cadastral process.

Despite questionable land restitutions and due to its geographical position and the large surface area, Romania still manages one of the biggest areas of arable land in the European Union. According to the World Bank, Romania has an area of arable land amounting to 0.43 hectares per inhabitant, putting it in sixth place in the EU on this issue.<sup>224</sup> However, even for the State authorities, it is difficult to tell who are the owners of the land or how many farms we have, what is being produced and at what cost.

In the first table, we can see the Romanian agriculture area and its evolution, from 1950 to the fall of Communism and to 2014, when the authorities stopped collecting data until the completion of the cadastral process of the ANCPI. As the table shows, there are no major differences starting from 1950 until 2014, not even after the fall of Communism and up until 2014. For more accuracy, we are comparing the data from 1989, when the Communist regime fell, and 2014, which are, unfortunately, the latest available data.

Romania lost 128,900 hectares of agricultural land in 25 years, while the country also lost 121,100 hectares of orchards, 68,100 hectares of vineyards and 63,000 hectares of arable land. Instead, Romania gained 107,400 hectares of meadows and 15,300 pastures. The distributions have not changed significantly, offering a fair reflection of the present situation.

NAME	1950	1989	2010	2014	CHANGES 1989-2014
<b>AGRICULTURE AREA, FROM WHICH:</b>	14.324.000	14.759.000	14.634.500	14.630.100	128.900
<b>ARABLE</b>	9.377.900	9.458.300	9.404.000	9.395.300	63.000
<b>PASTURES</b>	2.852.400	3.256.900	3.288.700	3.272.200	-15.300
<b>MEADOWS</b>	1.682.200	1.448.900	1.529.600	1.556.300	-107.400
<b>VINEYARDS</b>	227.300	277.500	213.600	209.400	68.100
<b>ORCHARDS</b>	184.200	318.000	198.600	196.900	121.100

Source: Romanian National Statistics Institute and Ministry of Agriculture, 2020-ha-

According to a Transnational Institute study for European Commission, from the total area of agriculture land, almost 40% of it, (so 6 million hectares), is owned by foreigners from which 10% are

224 [https://data.worldbank.org/indicator/AG.LND.ARBL.HA.PC?name\\_desc=true&locations=RO](https://data.worldbank.org/indicator/AG.LND.ARBL.HA.PC?name_desc=true&locations=RO)

non-EU nationals.<sup>225</sup> According to the Eurostat, Romania had 3.7 million holdings in 2010 but only 13,730 of them owning above 100 hectares. The remaining ones are smallholding with less than 99 hectares. However, the conglomerates are part of those 13,730 holdings, while the top 100 owners of the agriculture area in Romania own 4% of the whole land. From those, the top 10 owners own 1% of the total agriculture area, taking us to the next issue of who is benefiting from the European Union funds.

## WHO IS BENEFITING FROM THE EU FUNDS?

Since 2008, European Union allocated to Romania an impressive amount of funds for Common Agricultural Policy implementation, through its two main financing instruments: the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). Their purposes as well as the European Union's regulation state very clearly that the money is for aiding farmers, rural development, and agricultural measures. In the below table, we can see the total amounts of Agri funds received by Romania by each instrument, between 2008-2018. Romania has benefited from a total of 23.2 billion euros in 10 years from the two payment instruments of CAP funding. The biggest total amount of money received was in 2017, with 3.3 billion euros while the lowest amount was one year after the accession of the country to the EU.

### EVOLUTION OF PAYMENTS UNDER THE CAP IN ROMANIA 2008-2018 (IN EUR)

	EAGF	EAFRD	TOTAL
2008	474.000.000	561.000.000	1.035.000.000
2009	598.000.000	565.000.000	1.163.000.000
2010	674.000.000	760.000.000	1.434.000.000
2011	802.000.000	894.000.000	1.696.000.000
2012	1.022.000.000	1.101.000.000	2.123.000.000
2013	1.206.000.000	1.191.000.000	2.397.000.000
2014	1.334.000.000	822.000.000	2.156.000.000
2015	1.461.000.000	1.257.000.000	2.718.000.000
2016	1.568.000.000	605.000.000	2.173.000.000
2017	1.828.000.000	1.569.000.000	3.397.000.000
2018	1.810.000.000	1.146.000.000	2.956.000.000
TOTAL	12.777.000.000	10.471.000.000	23.248.000.000

Source: [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/cap-funds\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/financing-cap/cap-funds_en)

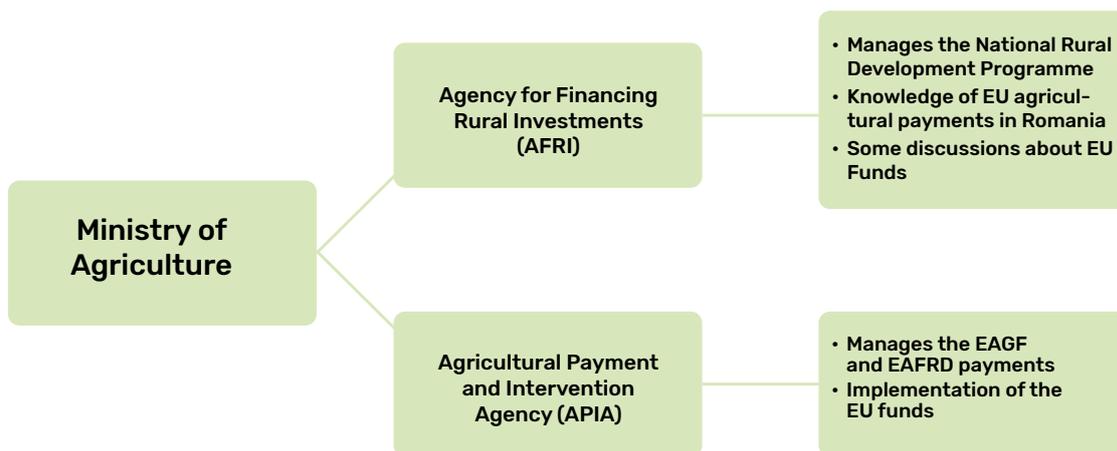
225 [https://www.economica.net/studiu-ue-aproape-jumatate-din-terenul-agricol-al-romaniei-este-detinut-de-cetate-ni-straini-statul\\_109876.html](https://www.economica.net/studiu-ue-aproape-jumatate-din-terenul-agricol-al-romaniei-este-detinut-de-cetate-ni-straini-statul_109876.html).

In 2018, the European Commission statistics showed that in Romania, from a total of 834.620 beneficiaries of direct aids for the producers, 57% of them received between 0-500 EUR.<sup>226</sup> Another 26% of them received only between 500-1.250 EUR while 0.05% received above 250,000 EUR. The category of those who received below 500 EUR obtained payments amounting to 141.1 million EUR out of a total of 1.7 billion EUR of EU agriculture funds, which comes to 8% of the total. The category of those who received between 500 and 1,250 EUR were paid out only 20 million EUR more, approximately 9% of the total amounts paid. By comparison, those who received above EUR 250,000 managed to receive 228 million EUR, almost as much as the first two categories received in total and 13% of the total amounts paid.

The first two categories represent the small farmers, with limited capacity and management, who only received small amounts of payments, up to a maximum of 1,250 EUR per beneficiary. Emphasizing this point, under the ‘Small farmers’ scheme’ of the European Union for Romania, the share of farmers out of the total number of farmers eligible for direct payments decreased gradually during the period from 2015 to 2018. From 80% in 2015, the percentage dropped to 55% in 2018, along with the share of the total expenditure for direct payments.<sup>227</sup>

However, during our research, we also found that there is a lack of information from the public administration. This made it difficult to learn exactly how many EU funds were received by the big landowners or what the total share of agricultural properties across Romanian land is. It is also very likely that the big landowners own more properties than they rented and that these are not listed.

The Romanian government has not published much open data and the only available official data regarding the landowners comes from 2010. The same problem applies to the payments received by landowners. The only data available on an official government website only covers the period from 2018 to 2019.



226 [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-statistical-fact-sheet-ro\\_en.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-statistical-fact-sheet-ro_en.pdf), page 5.

227 [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key\\_policies/documents/summary-report-implementation-direct-payments-claim-2018.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key_policies/documents/summary-report-implementation-direct-payments-claim-2018.pdf), page 27-28.

During the research, we made an information request to the Agency for Financing Rural Investment (AFRI), one of the two institutions subordinated to the Romanian Ministry of Agriculture (as we can see above), which manages the National Rural Development Programme and also covers some small tasks regarding EU funds. Our request concerned the data on agriculture payments and land ownership and was made on the basis of Law 544/2001 regarding access to information of public interest.<sup>228</sup> The official answer was that the agency is allowed to make publicly available only those data covering the agriculture payments only for the period of the last two consecutive years, citing a misinterpreted EU Regulation, number 1306/2013. Therefore, in practice, the agency erases the public data every two years and we were told that, if we would like to access the previous payments the process would take a long time due to the huge amount of data.<sup>229</sup> Regarding the data with regard to landowners, the agency responded that it does not possess such data and that we should make a request to the second institution of the Ministry, the Agricultural Payments and Intervention Agency (APIA).

It is important to understand that the AFRI along with the APIA are the two agencies of the Ministry which manage EU agricultural funds and that they both have access to the payments. The EU money received by Romania through the EAGF and EAFRD is managed by the APIA. The agency is responsible for implementing the EU funds and checking all the payments, knowing exactly who fulfils the criteria for receiving the EU subsidies, who are the receivers and the owners. As we previously stated, however, it publishes only the payments for 2018-2019 and some other data that are not relevant for our study. We followed the recommendation by the second agency and we requested APIA for the data on agriculture payments by using the same law on public information, but we never received an answer.

The two agencies are clearly lacking in transparency in terms of public information and the strategy appears to be that, if you make a public request to one, it redirects you to the other one and vice versa. The Ministry of Agriculture, the institution that manages and coordinates the APIA and the AFIR, is aware of their missions and data collections and was asked for the same figures (payments and landowners). The Ministry of Agriculture refused to present such information and argued that it does not possess such information and that this does not fall within the remit of its competence. Even though it has two agencies under its responsibility that have the requested data, we can observe that there is also a lack of communication at the governmental level.

In addition, we searched the APIA website to see the payments received in 2018-2019 but the data is mostly non-functional. It does not have an export button, has a very difficult search box and has no open format for downloading documents.

According to data provided by the APIA to the press, in 2016, out of a 2,471 billion euro (of which 1,677 million euro - EAGF, 496.39 million - EAFRD, and 298.19 million - national budget) for 830,000 beneficiaries, the first 10 companies made up for almost 11% of the total sum.<sup>230</sup>

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228 <http://legislatie.just.ro/Public/DetaliiDocument/31413>

229 At the time of writing the study, AFRI had still not provided us with the public information.

230 <https://www.agroinfo.ro/vegetal/top-50-fermieri-din-romania-care-au-beneficiat-de-cele-mai-mari-subventii-apia>

## EQUAL FOOTING FOR BIG AND SMALL?

Due to the lack of reliable and accessible data, we held multiple discussions with farmers from small and medium-sized farms and parts of different farmers' associations for this section of our study. The main conclusions and problems raised in these discussions are as follows.

One of the issues raised was that even medium-sized farms do not have the capacity to access more EU funds because they do not have the human resources necessary to manage the bureaucracy. Although it is easier for those who are part of well-established farmers' associations to access funds and to contribute to the decision-making process, they lack more predictability in terms of how the funds will be allocated. One of the issues that farmers brought to our attention is that, during electoral campaigns, projects that also have a local infrastructure component are allegedly prioritised, possibly in order to gain votes by building infrastructure in rural areas.

From our discussions with small farmers, it is even harder because they can only access small amounts of funds and subsidies and the bureaucracy is not worth the effort for that. Instead, some of them prefer to work abroad for a year or two to gather the money to invest in land and technology. There are some funds that they can access more easily, such as those for young farmers or ecological agriculture. Both small and larger farmers that we interviewed said that they have doubts about these funds because they are mostly accessed by those that can use the loopholes in the law to make easy money and are not willing to invest in the future.

These opinions are also backed up by cases investigated by the National Anticorruption Direction. According to their 2019 annual report,<sup>231</sup> the offences against the financial interests of the European Union, in particular in the agricultural sector, were discovered in three fund-related activities. They discovered delicts in: (i) granting subsidies for agricultural areas; (ii) implementation of projects regarding the installation of young farmers; but also, for (iii) rural development and acquisitions of technology for rural areas. EU funds were mostly illegally obtained by using false or incomplete documents, fake contracts of ownership or fake documents showing larger areas of land to receive more subsidies.

Small- and medium-sized farms are facing even more hurdles. For them, calamities are also a bigger problem to recover from. After a year of severe drought, a pandemic that both stopped them from working the land and left them with tonnes of unsold products which have gone to waste, many of them hold little hope that they will be able to keep their land or invest further in the absence of better regulations. Furthermore, the complex State bureaucracy in terms of accessing EU funds and the lack of transparency makes the process even more difficult.

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231 [https://www.pna.ro/bilant\\_activitate.xhtml?id=46](https://www.pna.ro/bilant_activitate.xhtml?id=46)

## A SOURCE OF OLIGARCHIC STRUCTURES?

In the third table, we present the top ten landowners from Romania in terms of hectares they bought and rented, for the year 2010, based on the latest publicly available data.

RANKING	NAME	AREA IN HECTARES	COUNTY	PAYMENTS FROM EAGF AND EAFRD (2008-2013), MILLIONS OF EUROS <sup>232</sup>
1.	SC TCE 3 BRAZI SRL	55,585.67	BRAILA	37.1
2.	S.C. COMCEREAL S.A.	27,920.68	VASLUI	20
3.	S.C. INTERAGRO S.A.	20,230.83	TELEORMAN	10
4.	AJCOCTC BARAGAN IALOMITA	12,624.33	IALOMITA	4.7
5.	S.C. MARIA TRADING S.R.L.	11,675.46	CALARASI	5.4
6.	SC INTERCEREAL SA MOVILA	11,112.46	IALOMITA	6
7.	S.C. AGROCOMPLEX BARLAD S.A	10,584.57	VASLUI	4.5
8.	SC DELTA-ROM AGRICULTURE SRL	9,998.02	TULCEA	5.5
9.	S.C. AGRO CHIRNOGI S.A	9,837.55	CALARASI	7.3
10.	SA ZIMBRUL SA	9,835.26	IALOMITA	6
<b>TOTAL</b>		<b>179,404.83</b>		<b>106.5</b>

Source: <https://landmatrix.org/media/uploads/zfrocompaniicine-sunt-latifundiarii-romaniei-in-topul-primil-or-zece-sunt-trei-companii-straine-vezi-aici-top-100-proprietari-de-teren-agricol-9144066.pdf>

The top ten companies in the agriculture area of Romania possess almost 180,000 hectares, which represents 1% of 14.6 million hectares. The rest of the 100 biggest companies cover another almost 400,000 hectares, which represent 4% of the total agricultural surface area of Romania.

These ten companies received in total more than 100 million EUR as direct payments from the APIA, money coming from the EU funds. Another interesting fact is that all the companies, apart from Delta-ROM from Tulcea county, own lands in the poorest counties of Romania, which are Vaslui, Barlad, Ialomita, Calarasi and Teleorman. Besides owning large areas of land, many of these companies have political ties, as shown by the Romanian investigative media in the past. We will present the examples of the above companies that were the subject of investigative materials. In some cases, the owners were also prosecuted by the National Anticorruption Direction.

The biggest landowning company in our table, TCE 3 Brazi, which controls 55,585 hectares,

232 <https://farmssubsidy.org/search/?country=RO>

is owned by the son of Culiță Tărăță, who died in 2014. Culiță Tărăță was a deputy for the Social-Democrat Party (PSD) in the Chamber of Deputies between 2000 and 2004. Although he put his company into bankruptcy in 2014, he still received payments from the EAGF and EAFRD. From 2008 until 2013, the company received 37.1 million euros.<sup>233</sup> He also managed the largest farm in Romania and Europe - Great Braila Island until 2012 (57,000 hectares)<sup>234</sup>. Soon after the liquidation, the company was purchased by Agricost, a company that holds 0.6% of the country's arable land and is now controlled by a foreign holding group - Al Dahra. This foreign company was founded in the United Arab Emirates and is present in over 20 countries. It is a multinational in the agri-food sector, specialising in animal feed and essential food.<sup>235</sup>

Another interesting company in the list of top 100 landowners is Teldrum, the company controlled by the former leader of the Social Democrat Party (PSD), Liviu Dragnea. He and his relatives were closing different deals with the company, especially when Dragnea was the president of the County Council in Teleorman, where the company is headquartered. He has been in jail since 2019 and there is another open investigation run by the National Anticorruption Direction (DNA) concerning Teldrum.<sup>236</sup> In this investigation, he is accused of establishing a criminal group, abuse of office and crimes related to misappropriation of EU funds in relation to helping the company to win public contracts.<sup>237</sup>

One of the most well known cases of agriculture companies is that of Interagro Group, number three on the list. The company is currently in the process of judicial reorganisation. It is owned by businessman Ioan Niculae, a former officer of the *Securitate* [Romania's former secret police agency], owner of a Romanian first division football club and a major contributor to the Social Democratic Party. He was also convicted in a case concerning bribes for the presidential campaign. Niculae is also charged with tax evasion and money laundering in an ongoing Interagro trial. According to the prosecutors, he allegedly tried to bribe high officials to pass a government decision offering tax facilities for subsidising the purchase of chemical fertilisers.<sup>238</sup>

Another company, Comcereal, the second biggest owner of Romanian lands, part of the Racova Group, was owned by businessman and former football club financier Adrian Porumboiu, who held most of the area in the Moldova region. In 2014, he was given a fine of almost 17 million euro

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233 <https://farmssubsidy.org/RO/recipient/RO944726/sc-tce-3-brazi-srl-municipiul-braila-braila-sud-est/>.

234 <https://stirileprotv.ro/romania-te-iubesc/tara-fara-glie-partea-a-iii-a-insula-mare-a-braila-cea-mai-mare-ferma-agricola-din-europa-ar-putea-fi-preluata-de-arabi.html>.

235 <https://www.digi24.ro/stiri/economie/adq-achizitioneaza-50-din-al-dahra-holding-company-firma-care-opereaza-insula-mare-a-braila-1306974>.

236 <https://www.digi24.ro/stiri/actualitate/justitie/video-liviu-dragnea-a-fost-adus-la-dna-in-dosarul-tel-drum-a-fost-tinut-45-de-minute-in-duba-1329004>

237 <https://www.dw.com/ro/liviu-dragnea-condamnat-definitiv-la-trei-ani-%C8%99i-jum%C4%83tate-de-%C3%AE-nchisoare/a-48902009>

238 <https://www.digi24.ro/stiri/actualitate/justitie/dosarul-interagro-ioan-niculae-condamnat-la-3-ani-si-6-luni-de-inchisoare-1024750>

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from the APIA and transferred all his shares at Racova Group to a foreign investor, Vaja Jhasi. Vaja Jhasi is a Georgian with Russian citizenship who also controls Transoil, the biggest agro-industrial holding group in the Republic of Moldova, according to the documentation of an interview made by an investigative journalist, Cosmin Savu, in 2018.<sup>239</sup> Vaja Jhasi is also considered to be a close friend of Vladimir Plahotniuc, the Moldovan oligarch, who even helped him to buy the biggest oil processing plant in Romania, Ultex Tandarei, in 2014.<sup>240</sup> According to journalists, the source of the money for this acquisition came from the International Investment Bank, the former bank of the Communist states, controlled by Russia and based in Moscow.<sup>241</sup>

AJCOCT 'Baraganu', the fourth company on our list, was also the subject of an investigation. Stefan Nita, the former president of the company, was given a suspended sentence of three years in prison in 2014. The prosecutors noticed that, in 2010, he had fraudulently received EU subsidies, establishing a prejudice of almost 300,000 euro.<sup>242</sup>

Another example is Maria Trading, a part of the Maria Group, which controls, according to the press, almost 65,000 hectares of land in Romania.<sup>243</sup> The owner is the Lebanese Jihad El Khali, investigated for the alleged creation of a criminal group specialising in tax evasion, smuggling and money laundering in the field of commercial operations with cereals, with damage of over 30 million euros. However, the case was closed and the investigation dropped because he paid 2.5 million euro as part of the prejudice.<sup>244</sup>

According to the stakeholders that were interviewed for this research, the model allegedly worked even better on a local scale, where mayors with good relations and access to information regarding the allocation of subsidies and EU funds easily convinced people to sell or rent their lands to use them for their benefit. Another issue raised and backed by cases brought to justice by the National Anticorruption Direction was of landowners with ties to local government who have managed to receive funds based on forged documentation. One example brought to our attention was the use of traditional Romanian associations ('obsti de mosneni'), which are a historic form of association for land-owning that still exists in some parts of Romania.

These forms of associations have a special regime and are prohibited from selling land outside the association. Many of them were convinced, either by local authorities or bigger farmers, to either change their form of organisation or accept them in the association so that they can buy the land.

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239 <https://stirileprotv.ro/romania-te-iubesc/cum-s-a-prabusit-un-imperiu-romanesc-de-sute-de-milioane-de-euro-interviu-cu-adrian-porumboiu.html>

240 <https://www.g4media.ro/un-grup-economic-apropiat-de-plahotniuc-preia-o-companie-din-romania-printr-un-imprumut-de-la-banca-de-investitii-controlata-de-rusia.html>

241 Idem.

242 <https://pressone.ro/pamanturile-ii-a-cui-e-inima-baraganului?fbclid=IwAR2qPSmlW2mDvURNkPWe3Ork-36MZfyE5-CzXT0GPI0T5AMgG4TVap5mHwRA>

243 <https://www.digi24.ro/stiri/economie/agricultura/cine-sunt-cei-mai-mari-proprietari-straini-de-terenuri-607345>

244 <https://www.g4media.ro/inca-o-clasare-de-rasunet-dupa-7-ani-de-ancheta-diicot-a-inchis-dosarul-cu-prejudiciu-de-30-de-milioane-de-euro-al-libanezului-jihad-el-khalil-unul-dintre-cei-mai-arendasi-din-romania-decizia-a-f.html>

Another major issue that farmers in Romania have raised is the take-over of land by foreign agro-conglomerates. Even before the liberalisation of land acquisitions in 2014, big foreign companies started buying land by opening local Romanian companies or taking control of existing ones. The most known and common way in which they came into possession of the lands was quite simple at first sight. They leased large parts of arable land for a long term, from the State Domain agency, and now they are paying three times less rent than landlords who lease land from private individuals. After 2014, foreign investors started to accumulate even more land. Although we have no official data regarding land grabbing, both the European Commission study we mentioned earlier and LAPAR (League of Associations of Romanian Farmers) have warned that more than half of the land is held by foreign agro-conglomerates. The consequences can be seen primarily in the cost of land. The average cost of land has doubled, from 1,958 euro/hectare in 2016 to 5,128 euro/hectare in 2019, affecting primarily small farmers with less power and financial resources. The lands were bought by the big landowners that expanded their properties and accessed even higher amounts of subsidies and EU agriculture funds. A law imposing restrictions for acquisitions of land was passed this year, but not without complications. The bill was promoted by the Social Democratic Party and its initiator, Alexandru Stanescu. He and his family are big landowners in Olt, a region in the south of the country. Both the Liberal Party and Save Romania Union have warned that the law is dedicated to landowners with political ties and challenged it at the Constitutional Court for possible infringement of the European Treaty. However, the Court rejected the claim.<sup>245</sup>

## HOW DOES THE SYSTEM WORK?

According to reports from the EU's anti-fraud office OLAF from 2018 and 2019, Romania has been ranked first in terms of the number of acts of fraud in relation to EU agriculture funds.<sup>246</sup> The 2019 report, which was published in September 2020, shows Romania as the country against which OLAF has solved the highest number of investigations regarding the management and spending of EU funds. Romania appears in several chapters regarding fraud: funds for aquaculture farms in areas without water and for forest fire prevention or wastewater management. The authorities and especially the National Anticorruption Direction (DNA) have intensified fraud investigations concerning EU money in the last four years, identifying a prejudice of more than 100 million EUR, of which almost 90% is related to EU funds.<sup>247</sup>

Even if there is legislation that, in theory, provides mechanisms for verifying and monitoring how projects are granted and implemented from the beginning, the numbers of irregularities and acts of fraud discovered after receiving funds or subsidies prove that these are not efficient.

The same can be said about how the authorities ensure compliance with Article 61 of the EU financial regulation on conflict of interest and how they control the identity of final beneficiaries. The matter of conflict of interest in Romania is covered both in general legislation (the Criminal Code)

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245 [https://www.capital.ro/baronii-psd-sunt-in-alerta-o-lege-cheie-a-fost-atacata-la-ccr.html?fbclid=IwAR0EYLf9Hn-OPYqRkLz4ts8XUT2XOIxON9kD\\_5PMga9s20NglNpsTrGp8](https://www.capital.ro/baronii-psd-sunt-in-alerta-o-lege-cheie-a-fost-atacata-la-ccr.html?fbclid=IwAR0EYLf9Hn-OPYqRkLz4ts8XUT2XOIxON9kD_5PMga9s20NglNpsTrGp8)

246 [https://ec.europa.eu/anti-fraud/sites/antifraud/files/pif\\_2018\\_statistical\\_evaluation\\_of\\_irregularities\\_1\\_3\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/pif_2018_statistical_evaluation_of_irregularities_1_3_en.pdf)

247 <https://www.pna.ro/comunicat.xhtml?id=9631>

and specific legislation regarding EU funds (*OUG 66/2011*)<sup>248</sup> and by authorities responsible for verifying conflict of interest (National Integrity Agency and management authorities). However, the mechanisms for avoiding conflicts of interest when accessing EU funds that are in place in Romania are mostly preventative: a signed declaration stipulating that there is no conflict of interest and the obligation to take all the measures necessary to avoid a conflict of interest.

In 2019, Romania passed legislation (*Law 129/2019*)<sup>249</sup> implementing the registry of beneficial owners after being warned about a possible infringement for not transposing the Anti-Money

*Legal persons under private law, trusts and any legal construction similar to trusts shall be required to obtain and have adequate, accurate and up-to-date information on their beneficial owner, including how this quality is to be achieved, and to make them available, at the request of control bodies and supervisory authorities. (Law 129/2019)*

Laundering (AML) Directive. The legislation stipulates that all the information regarding the beneficial owners that are transmitted through declarations will be held in central registries, organised at the level of different institutions:

- in a central registry organised at the level of the National Office of the Trade Register for legal entities that have the obligation to register in the trade register, except for the autonomous utilities, companies and national companies;
- in a central registry organised at the level of the Ministry of Justice for associations and foundations;
- in a central register organised at the level of the National Agency for Fiscal Administration in the case of trusts or similar legal constructions.

The law also stipulates that these registries are interconnected through the central European platform established by Art. 22 Para. (1) of Directive (EU) 2017/1.132 of the European Parliament and of the Council of 14 June 2017.

When it comes to access to this information, the first two registries can be accessed by the authorities that have supervisory and control competences, by the judicial bodies, by the National Office, without any restriction and without alerting the person concerned, by reporting entities when applying customer awareness measures and by any natural or legal person. For the third registry, the information can be accessed by the authorities and reporting entities under the same conditions but, when it comes to natural or legal persons, the law stipulates that the information is accessible to those who demonstrate legitimate interest.

Due to the Covid-19 pandemic, the deadline for the companies to submit their declarations regarding beneficial owners was postponed again and again. We do not therefore have reliable data at this

248 <http://legislatie.just.ro/Public/DetaliuDocument/129701>.

249 <http://www.onpcsb.ro/legislatie-onpcsb/legea-nr-129-11-07-2019-pentru-prevenirea-si-combaterea-spalarii-banilor-si-finantarii-terorismului-precum-si-pentru-modificarea-si-completarea-unor-acte-normative>.

point about the implementation of the registry. The fine for not transmitting the declaration has been established at between 1,000 and 2,000 euros.

Furthermore, the availability in the public domain of information about land registries and the beneficiaries of CAP funds is missing. It is very complicated to see exactly how much land each of the beneficiaries has, especially, if they are owners of several groups and farms. The mechanism of direct payments from EU funds in Romania is unclear and lacking in transparency. The process and the irregularities were sanctioned this year by the European Commission, with Romania having to return 71.3 million euro to the EU.<sup>250</sup>

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250 [https://www.economica.net/exclui-de-la-finanare-pentru-agricultura-ce-a-desoperit-nereguli-pentru-71-3-de-milioane-de-euro-accesa-i-de-romania-in-perioada-2015-2017\\_186160.html](https://www.economica.net/exclui-de-la-finanare-pentru-agricultura-ce-a-desoperit-nereguli-pentru-71-3-de-milioane-de-euro-accesa-i-de-romania-in-perioada-2015-2017_186160.html)

## CONCLUSIONS AND RECOMMENDATIONS

The report has put forward evidence showing that the implementation of EU agriculture funds is a highly problematic issue in Bulgaria, the Czech Republic, Hungary, Slovakia and Romania. The report shows that there is a clear inequality between the fund allocations for the big farmers and the small and that there are systemic advantages for the big farms whose managers generally have close ties to the ruling parties in their countries.

The report also finds that the countries simply do not use fully the existing instruments provided by the CAP to support the small scale farmers. In addition, small farmers in the EU member states feel that they are faced with a lot of administrative red tape, which often prevents or demotivates them from applying for funds. However, the evidence from the report also indicates that there are cases where the big farms are being treated in a preferential manner with regard to the implementation of subsidies.

The issue of splitting up companies in order to evade the EU agricultural payment caps remains a big issue. So far, there is no evidence that this instrument works in a way which it was designed for: It seems that it is even a common practice, for example in Bulgaria or Hungary, that big farmers divide their estates into several companies. A similar problem was also indicated by small farmers in the Czech Republic.

The issue of conflict of interest as well as of revolving doors in the sector is also a serious problem. The reports clearly show that there can be found strong links between politics and the biggest beneficiaries of the subsidies in all five member states. Even more so, it looks that without close linkages to politics in some cases equal access to land is almost impossible. In some countries, the position of a mayor, a head of an agency or a department head in the ministry becomes 'attractive' especially because of the access to EU-funds and to direct payments for leased land in particular. Even worse, as showed in particular in the case of Slovakia, EU agricultural funds has become an attractive business opportunity for different type fraudsters with little interest in farming itself.

Moreover, the report indicates a lack of transparency and public access to data regarding the allocation of the subsidies, which undermines public supervision procedures as well as public trust. This all further underlines the question as to how the member states can ensure an orderly distribution of the funds, which meets the EU criteria for competition, transparency and non-discrimination of the funds.

For many above mentioned reasons, it seems absolutely key to put in place the system of controls regarding the final beneficiaries and beneficial owners. Also, the prevention that the funds are being corrupted by the conflict of interest as stipulated by the EU Financial Regulation is key. Last but not least, it is clear that substantive auditing and controls both on the national and European level are key conditions for the protection of the EU Agriculture funds. In this sense it is extremely worrying that the new CAP proposal could lead to further soften the role of the European level in the controlling system. As proved by this study, this would be exactly the opposite that needs to be done to ensure the proper disbursement of the EU agriculture funds.

In the context of the Covid-19 global pandemic, the deep economic crisis, sharply growing deficits and increasingly empty public coffers, it is of utmost importance to ensure that the EU budget is implemented properly in order to support the well-being of all EU citizens and not in order to fill the pockets of those who are politically and economically powerful or well connected.

Based on the evidence of this report, we therefore call on the European Commission to:

- Make sure that the EU member states collect and publish the data in a transparent and user-friendly manner (including the machine readable format) on the EU agriculture funds payments in order to enable public control of final beneficiaries and the use of the EU funds;
- Ensure substantive and thorough auditing and controls both on the national and European level as a key condition for the protection of the EU Agriculture funds;
- Publish a list of applicants in each country who have required access to land and who wished to lease land in certain regions of the MS, as well as the explanation by the authorities why this request was rejected and why it was given to other applicants (in case of states land);
- Monitor the situation of Agriculture Paying Agencies in the member states and ensure both their formal and informal independence and bring their work in compliance with the EU rules, securing this inter alia through randomly generated visits a better EU control system in place;
- Ensure that the Financial Regulation of the EU, and particularly Article 61, is respected and implemented in all the member states and applied on all EU funds' payments, including the direct agriculture payments;

- Ensure that the Fifth Anti-money laundering directive is implemented fully and correctly in all member states, particularly with regard to the implementations of public registers of beneficial owners and registers of beneficial owners of trusts;
- Launch infringement procedures against those member states which that did not implement the Fifth Anti-Money Laundering Directive in a timely manner or in full;
- Ensure that the data on beneficial ownership are used to identify the beneficial owners receiving the EU subsidies;
- Ensure that data of all payments of EU subsidies are reliable and publicly accessible in the machine readable form to empower public supervision mechanisms;
- Equip the European bodies responsible for investigating and tackling the misuse of EU funds, including the European Public Prosecutors Office and OLAF, with sufficient resources to proceed effectively with their responsibilities in terms of the protection of the EU's budget;
- Make sure that the cases of misuse of EU funds brought to light by the investigative journalists in EU members states are fully investigated and ensure that any EU funds implemented in an irregular manner are recovered;
- Decide without further ado in the case of the alleged conflict of interest of the Czech Prime Minister Andrej Babiš and present the final audit reports to the public.

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