

The Effects of Liberalization on the Romanian Land Market Sales

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The land market is an objective component of the free and democratic market economy. Operating rules of the land market are broadly similar to those of any other economic good market, but there are specific elements. In the first place it is national, the land, as a material good is special which cannot be territorial deployed, multiplied or manufactured and it is a vital element in the existence of a nation. In the second place it is no price of land in general, each field or plot with its price. The present paper analyses the impact and the effects of liberalization on the Romanian land market sales. The goal is to identify the effect of land liberalization in the context in which foreign buyers are allowed to purchase land in Romania, since 2014. The importance and value of land increases as the development of the economy is higher. Under this criterion the land market in our country behave as such, because the development of the Romanian economy is lower compared to developed European economies. Because agricultural land is one of the main strategic resources in land market, the state must act with great caution and responsibility. In this context 2014 marks the liberalization of agricultural land market in Romania for potential investors from Europe under the Common Agricultural Policy. The main problem of the land market in Romania is the lack of cadastre or an owners database and lots of coordinates and other. Freedom to land has a major impact on the functioning of the market land mechanisms because the generous offers of the European buyers far outweighs the financial resources of Romanian farmers, especially people living in rural areas. Romania is the only country in Europe that has not made any notification to the EU for the imposition of restrictions on the purchase of land by foreigners. In the EU accession treaty concluded by Romania stated that farmland is a capital, while Hungary, said that the land is a national asset.

Keywords: land market; free movement; cadastre

The study of history is important not only for knowledge of the evolution of nations but also to understand easier certain principles applicable today. So I propose in the following an overview of the evolution of land market specific terms.

The most common term in all history is *cadastre*. The origin of this word is not clearly established because there are several hypotheses on its occurrence. Some version give to this term an Greek origin according to which it derives

from the compound word „katakton“ („kata“ - does the *top down*; „stikon“- has the meaning of *registre, tax, memoir, the book trade*) and other version give an Latin origin from the Latin word „capitastrum“ or „capitionis registrum“ which would mean *tax family head*.

Cadastral surveys were used from the beginning at the first forms of direct taxation and have, since ancient times as important task setting limits of the land 'properties.

Confirmations related to measuring land there were concerns especially in areas where land was cultivated for agriculture in the floodplain of the River Nile, in Mesopotamia and the Middle East.

Date of birth cadastre in Europe can be considered April 17, 1920, when work began measuring Milano principality under Austrian occupation. Considered all cadastres European model, was taken over by France under Napoleon, the Italian principalities and the Papal States, Belgium, Netherlands, Luxembourg, Swiss cantons, German Länder and the Ottoman Empire

In Romania this term appears at the early 19th century. Over time, in Romania, real estate advertising was done in several ways, two systems being the main registers transcriptions and inscriptions and one based on land books.

Besides these two main systems were regulated other intermediate systems. Land cards advertising system with a restricted applicability to Bucharest and several surrounding villages and land record system cards applicable in certain places in Transylvania. In Wallachia, Moldavia, Oltenia and Dobrogea regulates way out through registers transcriptions and inscriptions. This system has a personal record the main criterion being the person and not the property.

The system involves keeping two books, one of transcriptions, which acts transcribed by copying the entire transmission and building rights, and one of the inscriptions, which included mentions on privileges and mortgages. After these registers is hard to determine who is the real owner of the property and the existing tasks.

Decree-Law no. 115/1938, applicable in Transylvania, Banat and northern Moldavia consecrated land registration system based on land books. This is a real system of record, taking into account the building as well as precisely how its identification. This system performs a full advertising as requiring mandatory registration in the land book of all legal acts and facts relating to real estate. Land books superiority lies in the fact that it is considering the interests of third parties which ignored the Civil Code and it allows easy identification of the building. It is noteworthy the fact of evidence, whereby both parties and interested third parties are able to know the legal status of a property at any time.

The evolution in time of the agricultural land transactions in Romania

After the communist period when there were restrictions on the legal circulation of land, one of the first measures of the new parliament was to forbid the alienation of land of any kind until the adoption of new regulation on land, according to Law no.9/1990 on the temporary ban on land alienation through acts between living persons.

In the period between 1991 and 1997 the legal circulation of land was regulated in Law 18/1991. The provisions have in view the land areas into private ownership, about which the law stipulates that the land is and remain into the civil circuit. The land could be sold regardless of its area size, with the restriction that the property of the acquirer should not exceed 100 ha (arable equivalent) per family. The law did not enable the establishment of large properties, as it contravened to the approach assumed by the initiators to ensure access to the land resources for as many persons as possible.

In a new political context, starting with year 1996, when was reformed the entire agricultural sector by the program supported by the World Bank, Law 54/1998 on the legal circulation of land was adopted, and the chapter from Law 18/1991 on this matter was repealed. So, the upper limit of a land property owned by a family increased to 200 ha.

Law no. 247/2005 on the reform in ownership and justice had as main objective the correction of certain situations from different legislative acts repealed Law 54/1998, replacing it with the provisions from title Legal circulation of land. The new provisions simplify the legislation in this field, approaching the land transactions on a unitary basis, regardless of their destination: agricultural or forest land. At the same time, the pre-emption right is completely eliminated. This had as an indirect result the fact that the town halls were no longer obliged to keep the evidence of transactions with extravilan agricultural land areas, and the Ministry of Agriculture could no longer centralize the data on the land market.

In solving the problem of the fragmentation of properties in Romania, the law has one provision that exempts from paying the stamp fee for the land alienation made for the purpose of consolidating the parcels and plots, as well as for the alienations made by the persons entitled to obtain the agricultural life annuity.

Legal framework in Romania

In the Treaty of Accession to the EU land as market liberalization has provided the law which was enacted this year in the law 17/2014. This law opened doors to individuals who can buy land in the country the same conditions as Romanian citizens without any restrictions. In this context, the law does not facilitate the acquisition of agricultural land by Romanian citizens towards European investors.

Moreover European buyers benefit of other credit terms with much lower interest rates, which encourages and provides competitive advantages to potential investors in Romania, with a priority to purchase and it exceeds the pre-emption legislation.

Freedom to land has a major impact on the functioning of the market land mechanisms because the generous offers of the European buyers far outweighs the financial resources of Romanian farmers, especially people living in rural areas.

According to Law 17/2014, which entered into force on April 11th, the ones who can buy agricultural land outside the city in our country are:

- Romanian citizens;
- Citizens of EU countries;
- Citizens of countries who are part of the European Economic Area Agreement (EEAA; includes Norway, Liechtenstein and Iceland) or the Swiss Confederation;
- Stateless people residing in Romania, an EU member state, in a state of ASEE and the Swiss Confederation;
- Legal people having Romanian nationality;
- Legal people having the nationality of an EU Member State, of the states who are part of the EEAA and the Swiss Confederation.

Citizens and legal people belonging to an EU Member State or States which are party to the EEAA or the Swiss Confederation can purchase agricultural land in Romania in terms of reciprocity.

According to MARD Order no. 719/2014, for the sale of lands, the seller submits the request for the display hall offered for sale along with other supporting documents. Then the town hall transmits to the main structure or to the territorial structures, if appropriate, fill all documents mentioned above and the list of pre-emptors within 3 days from completion date.

Within 30 days from the posting of the sale offer at the town hall, under penalty of forfeiture, any pre-emptive holders wishing to exercise this right at the town hall should record the offer according to law no 17/2014.

The seller chooses pre-empt potential buyer in accordance with the procedures from art. 7 and communicates to the town hall. The town hall transmit to the main structure or territorial structures, if applicable, an identification of a potential pre-empt chosen by the seller, together with documentation.

According to Law no. 17/2014, if the land is purchased by a pre-emptor, we need a final opinion in order signed the contract to be signed. This opinion is issued by the ADS's territorial structures for lands with an area up to 30 hectares and the ADS for lands with an area over 30 hectares.

Specifically, ADS verifies if the pre-emptor meets legal requirements within 5 working days of receiving data and documents on sale, under the new law to purchase land outside the city. The control result is communicated by a notice, positive or negative, within 2 working days from the deadline.

According to the application of Law no. 17/2014, the main structure or territorial structures, issued its final opinion / adverse opinion. If no pre-emption

purchase not its intention, in legal terms, the sale is free, according to the application of Law no. 17/2014.

Land transfer both by sale and the rent is made difficult because over 50% of agricultural land is not registered in the cadastral register, the land law was applied incorrectly, generating occurrence of several types of property documents for the same parcel of land but with different owners, and not least because of high costs to achieve cadastre for smallholders.

At present the total area of 13.5 million ha of agricultural land that it owns Romania, about 9 million ha is arable. These lands are generating the most interest from buyers. For this reason all agricultural policies that measures in this field, must follow and focus primarily on agricultural land use.

According to INS statistics held by the end of 2011 the agricultural area owned by foreign legal persons was about 470,000 ha area and at the end of 2013 amounted to about 800,000 ha owned.

This fact raises a question mark and this is that the areas are not known exactly legal basis considering that transactions must take account of the fundamental provisions of the Constitution, namely:

- Art 1, paragraph 1: "Romania is a national, sovereign, independent, unitary and indivisible"
- Art. 3 paragraph 1: "territory of Romania is inalienable", we can not sell or mortgage.

Or, purchase of agricultural land and forestry, judgment within the boundaries of constitutional provisions may result and cause a risk of loss of national identity independent of the rule of law.

So as not to be affected by the general principles of the existence of the Romanian state, rendered in Article 1, paragraph 1, the Constitution should have priority in developing any internal normative act or other state or group of states, especially when it comes to concluding treaties or agreements.

At the same time the European Commission has warned EU member states expressly that the law does not permit the introduction a maximum of sale and purchase of agricultural land.

In recent years the economic and social impact of the share sale and purchase of agricultural land in Romania was manifested both by affecting social and national security and also the emergence of globalization increasingly often which caused increasing existing discrepancies between states of the world.

The massive sale of land to foreigners has generated various litigation and conflicting states, many offenses are based on the violation of the law, which clearly weakened the productive capacity of farmers.

A negative impact on the quality aspect of agricultural land can be determined that the new owners will not take into account cultural, crop rotation, environmental zoning and overall production.

There are potential dangers and social event since small properties will disappear, rural areas are depopulated and poverty will increase due to increased degree of aging of the population.

However, land can not be moved in the land him that they buy, as such the owner - foreign individuals can just enjoy the freedom to produce. The real

problem is that foreigners can divert profits from agriculture to their home countries.

Legal framework of sales land in other EU Member States

Romania is the only country in Europe that has not made any notification to the EU for the imposition of restrictions on the purchase of land by foreigners. In this area there are other several million hectares owned by foreign tenants with right of first refusal to purchase. Interestingly, the Romanians do not have even one hectare of arable land in any EU country, according to the confederation of farmers. Accession Treaties concluded by the EU countries left to the discretion of each issue the sale of land to foreign countries, it is one that keeps the food safety of each state. In this context, the issue of land sales is a national, not a community.

In the EU accession treaty concluded by Romania stated that farmland is a capital, while Hungary, said that the land is a national asset. In Poland the maximum distance from the border at which foreigners can start buying land is 150 km and also buyers must prove that they have 12 years residency in this country. In Romania this distance hardly increased from 10 to 20 km through pressures brought by the Ministry of National Defense. In Bulgaria was voted that until 2020 the land can't be sold to foreigners. The European Commission has warned that it is a violation of the international commitments and Bulgaria could be liable for financial penalties. In Hungary the government is trying to protect farmland through some drastic measures. Thus, people in Hungary who has been found to be involved in the sale of farmland to foreigners can be punishable by up to five years in prison.

The Hungarian government decided to offer for lease 200,000 hectares of arable land to farmers under a new program that applies to parcels of land that are currently leased under contracts that expire until 31 May 2017. The goal of the program is to strengthen family farms as well as small and medium enterprises. Hungary plans to reduce the share of large farms to 20 percent of total arable land, compared to 50 percent today. Through these measures, the Hungarian legislation seeks to protect agriculture speculation and "foreign capital". Estonia has made notification to the EU, but has now introduced a bill which states that you can not buy land unless you own Estonian citizenship.

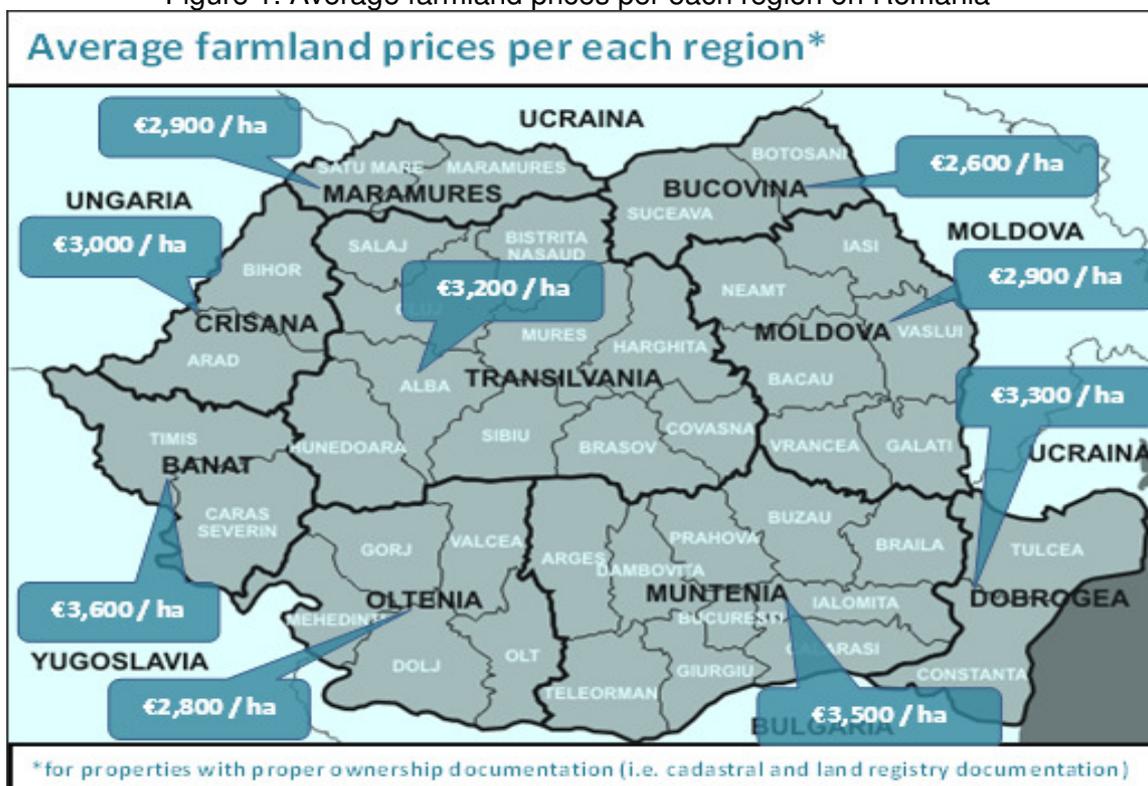
In Germany you cannot buy land unless proof the payment of taxes in federal republic. Germany protects its farmers and land resources by national legal instruments pre-emption of local community in favor of the public interest, taxation and financial instruments, tools structural planning public land.

French law provides that the owner can do what he wants on the land owned by it, because it is part of the national heritage. In France, no less than five ministries must give consent for concluding a land transaction. After obtaining the central authorities follow the same procedure for obtaining the local authorities. Thus, all these measures are almost impossible to sell land to foreigners.

The increase price- the principal effect of the liberalization land market

In Romania, since 2007 the price of land has almost tripled. Even if the price of land has an upward trend it remains low compared to the EU average. In Romania a hectare of land purchase price of 2,600 euros, the maximum being about 3,500 euros. In Greece the average price per hectare is 5,000 euros, almost the same as in Hungary, the Czech Republic, and Poland. In Spain, the price jumps to around 8,000 euros per hectare, while in France and Germany overcomes the threshold of 10,000 euro.in Denmark, a hectare costs, on average, about 27,000 euros.

Figure 1. Average farmland prices per each region on Romania



Source: www.dtz.com

Although land market liberalization took place only from January 1, 2014 about one million hectares of agricultural land is already owned by Romanian companies with foreign ownership.

So, because large foreign companies operating as owners of several hectares of land in Romania are present here for over 10 years, lifting restrictions acquisition of land by foreigners will not trigger an explosion in prices or a significant increase in the volume of transactions

According to some statistics, buyers of agricultural lands are particularly interested in areas southwest, south and east, in Romania, where prices are higher compared to other regions of arable land. Soil type, previous crop, maintaining cyclicality between culture and harvest, the existence of an irrigation

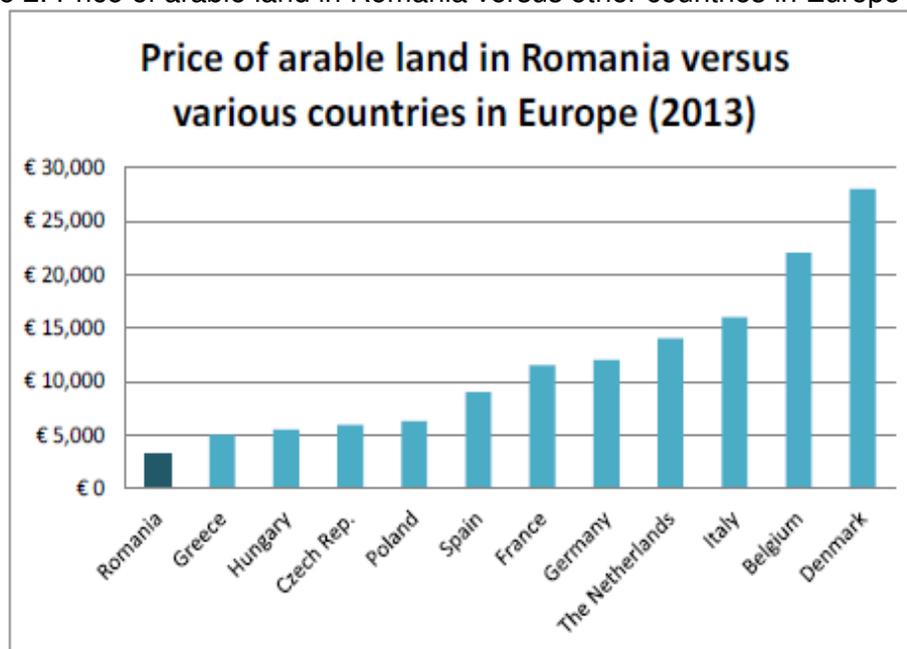
system can make the difference in price, but the big problem is the fragmentation, lack of clear ownership documents and lack of cadastre and tabulation.

As a result of market liberalization land some analysts said that the price of land will increase in 2015 by 10-15%. This statement was based also on the upward trend of recession period when trading prices have doubled compared to the last months of 2008. Based on these expectations will be reached in 2015 as a hectare of arable land to cost an average of 3500-4000 euro.

The decisions we took Romania on limiting access to foreign individuals to purchase agricultural land have been taken by other countries as well. In Hungary, where one hectare costs on average 5,000 euros, land market liberalization should be done as early as 2011 but the measure that has taken this country was to ask the European Commission to derogate 3 years for this operation. In Poland the land market will be liberalized until after May 1, 2016, when the EU member states, and the states belonging to the EEA (European Economic Area) will be able to buy agricultural land without restrictions. Until then, EU and non EU citizens who want to buy land in this country must obey a law that foreigners can purchase property, including agricultural land, only if they manage to take possession of a license issued by the Minister of the Interior or by the Minister of Agriculture.

In the year 2014 there is no official data regarding the evolution of prices of agricultural land, but it talks about a real boost with the liberalization of the sale price of agricultural land by foreigners, so the price of a hectare of land reaching and 4000 Euro per hectare.

Figure 2. Price of arable land in Romania versus other countries in Europe (2013)



Source: different articles

“The two most important sales price regulations for agricultural land are minimum and maximum sales prices” (Ciaian, Knasas & Swinnen, 2010).

Conclusions

Given the arguments made in the literature and in accordance with the above outlined these proposals can improve the current situation:

- ❖ absolute pre-emption for the ground access to the local community and the state;
- ❖ mineral resources related to land sold to remain in state ownership;
- ❖ rational use of technological factors;
- ❖ training specialist buyers of agricultural land - foreign individuals
- ❖ treating the land as a national asset;
- ❖ facilitate obtaining loans for acquisition of land by individuals;
- ❖ clarification of legally agricultural properties by making cadastre.

The sale of land is opposite the targeted land reform agrarian reform and land restoration of property rights. Agrarian reforms had the effect of reducing the large peasant farms in favor because the owners were forced to sell land not derived from restitution for 15 years, which has prevented the Romanian agriculture to perform.

Land is a strategic resource and the most important source of income and the safest for any state. For this reason, the state must act responsibly and prudently in this direction. To have an effective land market should be considered transferring land from less productive users the most productive.

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