




Government Service for Land and Water Management
Ministry of Economic Affairs, Agriculture and Innovation



3rd International Workshop Budapest



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Pre-emption rights related to rural land – Outcome of the comparative quick scan study


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Definition

A pre-emption right or ‘right of first refusal’ prevents or restricts the landowner from entering into a land transaction with parties other than those to whom the right is granted until those people / organisations have declined the offer.



Plot for sale



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Questions

- Are pre-emption rights a right tool to contribute to improvement of the rural land structure?
- If yes, in what way can this be balanced so that it does not affect mobility and is considered as a positive measure?




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Purpose quickscan

To ‘map’ different practices in European countries with the establishment and use of pre-emption rights in rural areas and to feed the discussion about relevance and efficiency of this instrument



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Working method

- Questionnaire 22 countries
- Internet search
- Questions
 - Objective
 - Scope
 - To whom?
 - Procedure
 - Legal framework
 - Restrictions
 - Experiences



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Results Quick scan June 2011

	R?	Pre-emptive rights?			Generally / particular applied		To whom is the right granted?			Widely used?			Purpose
		Yes	Limited	No	General	Particular	State	Municip.	Co-owners/ Lease hold	Yes	No	?	
1 Albania	√		√		√								Local users
2 Bosnia & Herzegovina	√		√		√				√				Local users
3 Bulgaria	√		√										
4 Croatia													
5 Cyprus													
6 Denmark	√	√				√	√	√			√		Nature / LC
7 Estonia	√					√							Islands / Nature / Local users
8 Georgia	√		√						√				Local users
9 Hungary													
10 Kosovo													
11 Lithuania	√	√			√	√	√		√	√			Nature / LC / Local Users
12 FYROM	√		√		√				√				Local users
13 Moldova													
14 Montenegro	√		√		√	√		√	√				Family / building
15 Netherlands	√	√				√	√	√			√		Red / green public goals
16 Portugal	√	√			√	√	√		√		√		Local users / LC
17 Romania	√	√					√		√				Culture / Forestry / Infrast / Local users
18 Serbia	√	√			√				√				Agricultural structure
19 Galicia/Spain	√	√			√		√				√		Agricultural structure / land abandonment
20 Sweden	√	√			√		√	√			√		Agricultural structure / building
21 Turkey													
22 Ukraine	√			√									
22	14												



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Different forms

- Co-owners and lease holders have the first right of buying.
- Co-owners, lease holders and neighbours have the first right of buying.
- Certain (defined) farmers have the first right of buying, followed by a public agency.
- A government agency has the first right in land consolidation areas.
- A government agency has the first right for other public objectives.



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Observations

- generally applied
- different objectives, different target groups
- not well monitored, not much research
- legal enforcement difficult
- intentions <-> real effect
- sensitive issue, touches the basic right of ownership




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Preliminary conclusions

- to have a **reserved attitude** in introducing pre-emption rights related to rural land (except for co-owners), especially in countries that already have low land mobility
- to **formulate clearly the objectives** in case pre-emption rights are introduced and to consider whether these objectives can be achieved by other instruments as well.
- to have **simple procedures** in the case of introduction to make sure that the procedures can be managed with a minimum bureaucratic load
- to **combine** pre-emptive rights with other positive schemes such as land consolidation and early retirement arrangements
- to carry out more **applied research** (country studies, case studies etc) to draw conclusions
- to **exchange** experiences and to study cases



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First think then act!

Thank you!



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