

# Inheritance matters or what to do if your children don't want your land?



PUBLIC INSTITUTIONS AND PRIVATE SUCCESSION IN AN AGING AND SHRINKING EUROPE

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## Outline

1. How special is land? Problem definition
2. Relevant social trends – aging, shrinking, unbalancing villages and some consequences
3. Comparing policy responses
  - Policy incoherence
  - State backed primogeniture
  - Inheritance and the obligation of care: Local initiatives, Public measures
  - Fair division and the obligation towards siblings
4. Conclusion

## The distinctiveness of farm land inheritance

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Rules of primogeniture – the worthy successor (whatever their gender?)

The presumption of equal (parcel) division

The obligation towards siblings – valuing gifts in kind versus gifts in land

The obligation to take care – reciprocal nature of the exchange

The timing of the transfer - Inter vivos or testamentary transfers?

The presumption against sale – but what are the important connections that remain?

## Is there a problem with farm succession?

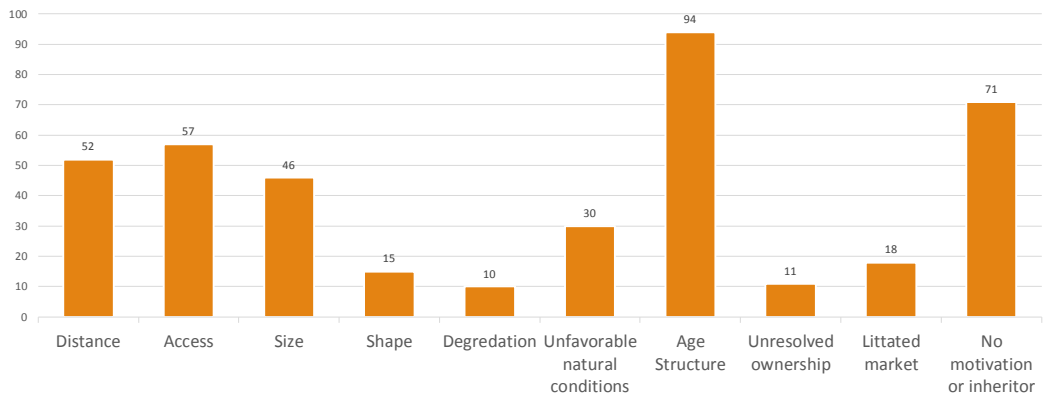
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In 58% of French farm holdings, the holder(s) was above 50 year old. **Only 28% knew** who would be their successor (Ministère de l'Agriculture, 2008).

In 2010, **nearly 70% of the 185,305 German farms with a manager aged 45 or older** faced unclear or lacking succession. Of those farms, circa 21% had a manager aged 60 or older (Destatis 2015)

About 1/3 of pre-retirement age farmer in Poland have already decided to pass down their farm to one of the descendants. **More than half (53% in 2000 and 59% in 2008) hadn't chosen a successor.** Most people designated as a successor were sons already fully engaged in running the farm. Farmers who hadn't chosen a successor had on average smaller farms and more often produced for **their own subsistence** rather than for the market (Dudek 2008)

# Why do people abandon farm land in Serbia?

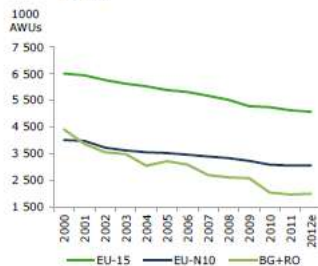


Source: DAL, GIZ 2014

## Causes One: Shrinking agrarian sector

Vast majority of family farms transmit land through the family. In many countries, however, the number of family farms and the size of the agricultural workforce is rapidly shrinking. The average age of a farmer is also high compared to the regular workforce

Graph 2 Evolution of agricultural labour input in the EU by groups of Member States – Data from the EAA

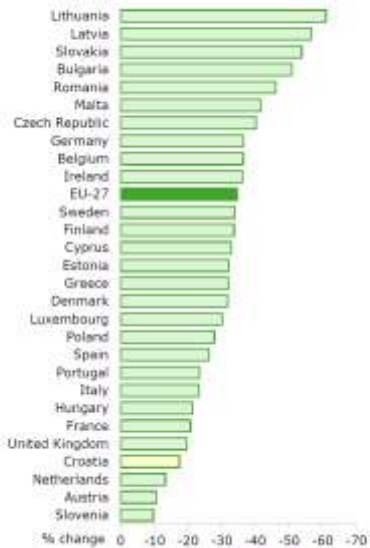


Source: Eurostat, EAA (online data code: [aact\\_0101](#)).

In 2012 there were 10.1 million of full-time equivalent jobs in the agricultural sector, of which 76% were carried out by non-salaried (family) workers.

In the period 2000-2012, 4.8 million full-time jobs in the EU agriculture disappeared, 70% of them in the new MS and 93% corresponding to non-salaried workers.

Graph 3 Evolution of persons employed in agriculture in the EU-27 and Croatia (2000-2012, % change) – Data from the LFS



Source: Eurostat, LFS (online data codes: [lfsa\\_egen22d](#)).

Table 6 Employment in agriculture – Data from the LFS

Countries	Employment in agriculture				
	1000 persons	% of men	% of persons aged 15-39	% of persons aged 40-64	% of persons aged 65 and more
Belgium	48.9	72.0	30.7	61.8	7.6
Bulgaria	168.1	66.5	33.7	62.3	3.9
Czech Republic	115.1	69.0	29.3	67.7	3.0
Denmark	63.7	78.5	43.0	46.0	11.0
Germany	572.7	65.9	27.5	63.1	9.4
Estonia	20.3	63.5	32.0	61.6	5.9
Ireland	81.2	87.7	23.3	57.0	19.6
Greece	471.6	58.7	28.3	66.7	4.9
Spain	688.6	72.5	39.2	58.9	1.9
France	707.1	68.6	28.6	67.7	3.7
Italy	774.9	69.3	32.0	61.1	6.9
Cyprus	9.8	66.3	18.4	53.1	28.6
Latvia	51.5	62.1	28.5	64.1	7.4
Lithuania	100.0	59.5	27.7	68.5	3.8
Luxembourg	3.0	70.0	23.3	70.0	6.7
Hungary	178.8	72.5	36.4	62.0	1.6
Malta	1.4	85.7	u	64.3	u
Netherlands*	205.3	71.7	39.5	54.9	5.6
Austria	193.1	56.1	23.5	63.4	13.1
Poland	1 878.4	57.4	35.0	60.2	4.8
Portugal	457.4	58.9	10.7	46.6	42.7
Romania	2 619.1	52.7	38.8	47.2	13.9
Slovenia	73.2	55.1	26.5	55.3	18.3
Slovakia	55.1	76.0	26.5	73.1	0.4
Finland	78.4	68.2	25.6	64.5	9.8
Sweden	64.4	69.7	32.3	52.6	15.2
United Kingdom	314.2	71.4	32.0	52.3	15.7
EU-27	9 947.9	61.5	33.0	57.0	9.9
Croatia	179.9	51.4	17.4	61.1	21.5

Note: \* 2011 for the Netherlands.

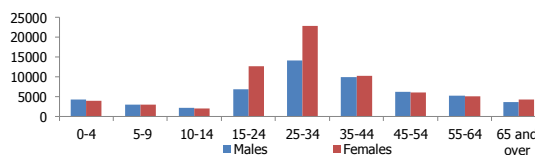
u = unreliable.

Source: Eurostat, LFS (online data code: [lfsa\\_egen22d](#)).

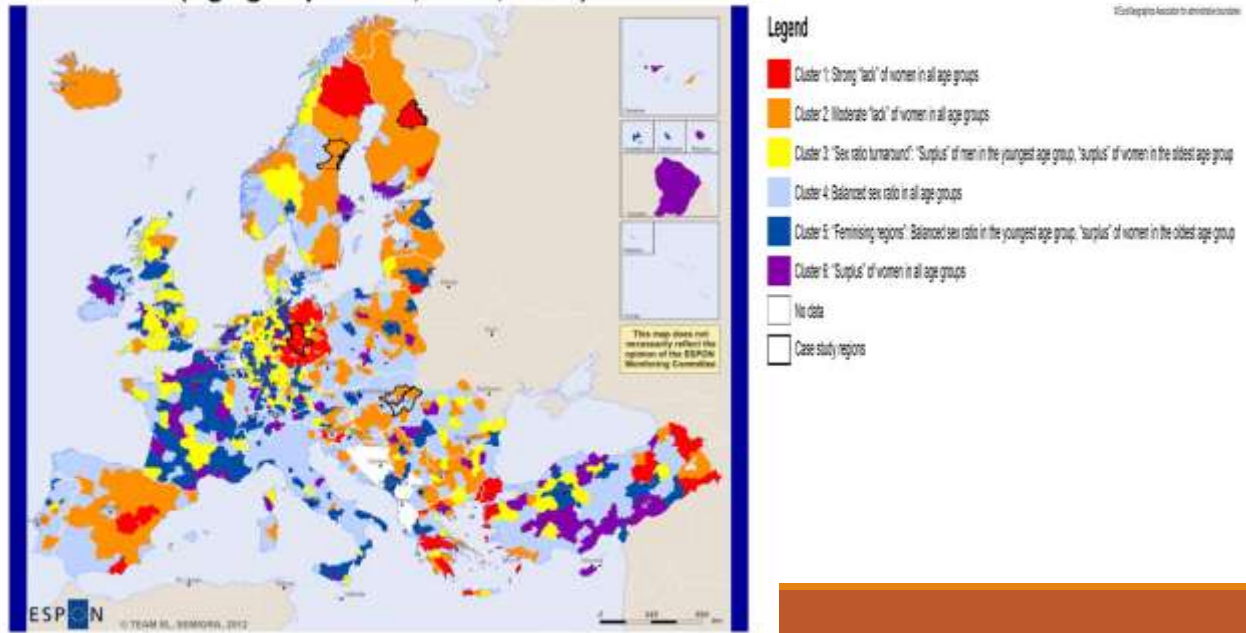
## Causes two: People are leaving the countryside

Distinguish rural migration by **destination, duration and cause**. For example, are people leaving for other rural areas, are they going to urban centres, are they going abroad? Is the **migration temporary**, for example, for education and short term earning? Is it **permanent or is it circular and seasonal**? Does it reflect long term decline which is gradual and phased or is it a sudden shocks caused by industry collapse or by war or conflict

Graph 1. Persons who have changed place of permanent residence by age and sex in Serbia, 2014



## Typology of regional sex ratio structures in young adulthood (Age groups 20-24, 25-29, 30-34)



## Some characteristics of unbalanced villages

Villages with **low birth rates** are more likely to see **higher out migration** which in turn leads to the loss of critical public services such as a clinics, schools, kindergartens and shops. (Moroz 2015)

**Unmarried sons don't tend to enlarge the family farm**, preferring instead to manage the existing land in combination with taking care of their elderly parents. (Schepper-Hughes 2001)

Where there are fewer women, **there tend to be lower numbers of dairy cattle breeding and vegetable production**, areas that traditionally relied upon woman (and also tended to have above average farm incomes).

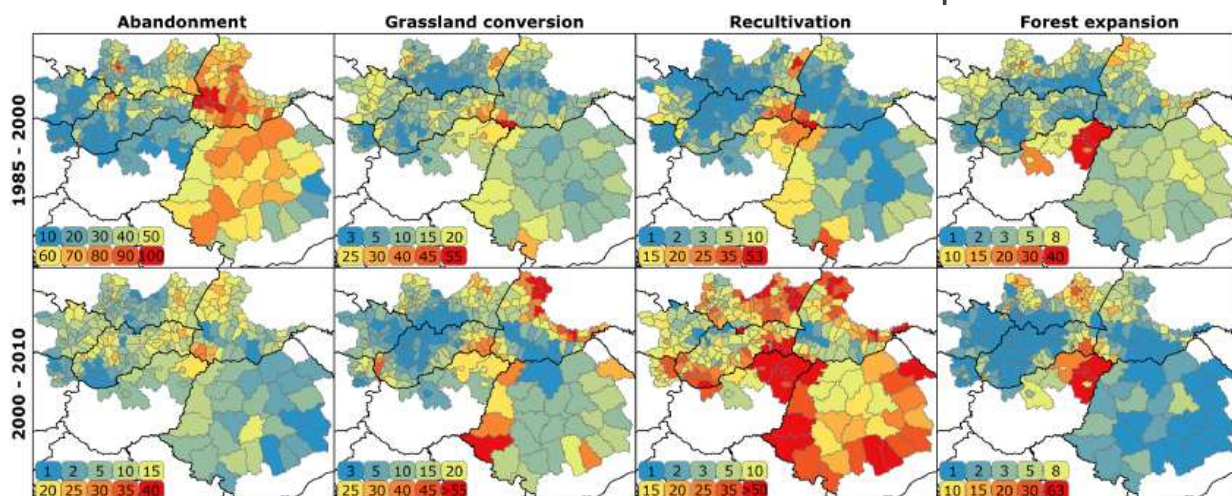
In areas with **low level of leasing and few sales**, **land values tend to be below average**; they are also more likely to have small holdings divided into ill-sized pieces. These are all primary risk factors in the abandonment of farm land.

## The impact of missing social infrastructure on the rate of rural population decline in Ukraine

Social infrastructure objects	Changes in number of rural residents in 1991-2005				Ukraine, on average
	less than -16.0%	-16.0% - -8.1%	-8.0% - 0%	more than 0%	
Pre-school organizations (in villages which have children aged 0-6)	83.3	67.7	70.2	44.5	70.8
Schools (in villages which have children aged 7-17)	66.4	56.1	39.7	18.0	51.4
Medical establishments and movable medical services	30.7	26.9	19.2	9.1	25.1
Club-houses	52.9	44.5	31.9	18.9	41.2
Consumer service establishments	98.9	98.5	98.1	94.6	98.3
Post offices	66.1	57.8	56.4	39.6	59.1
The stop of public transportation	38.2	29.1	18.7	16.5	26.8
The hard surfaced road	28.9	24.5	29.7	22.7	26.3

Source: Serhiy Moroz, Data: State Committee of Ukraine for Statistics

## Farm Land Abandonment in the Carpathians



Source: Griffiths et 2013

## Part Two: Inheritance law and policy incoherence

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Most Civil Codes sets out rules of succession, often including default rules of division and order of inheritance in great detail. However, many countries then restrict the normal rules of testamentary freedom in the name of preventing fragmentation of ownership. Does this exacerbate tendencies towards informality? Does this matter in the end if the land is productively maintained?

Series of property and stamp tax exemptions combined with non-enforcement of duty to take care of land seem to encourage passive ownership and sustain a land culture of wait and see.

State asks for certain rights of pre-emption but then turns down offer of very small holdings. Hungary.

## Policy Responses One: State backed primogeniture?

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The idea of the worthy successor – introducing qualifications in order to inherit land, examples, former EU wide early retirement scheme. Also see legislative requirements for all current acquisitions of farmland, including through succession, to be based on agricultural experience - Hungary, Turkey.

The presumption against equal division of small holdings – setting the limit on the minimum size of parcels, varies according to regions taking into account value of land, economic viability of unit (Portugal prohibits division of economically viable units even if above the minimum size).

Note different enforcement agencies – Could be cadastre obliged to refuse to register sub-sized divisions, thereby cutting off access to state funds. Could be probate court who intervenes to decide on appropriate farming qualifications if can 't be settled within family



## Changing kin patterns of care: Family and other private measures

Established tradition to allow for inheriting family house as a reward for taking care of elderly parents. Particularly significant in countries with large gap between rural and urban property prices

However, it is also possible to outsource care through private life annuities: for example, Bosnia and Hercegovina.

Article 908 of the Polish Civil Code provides for the following:

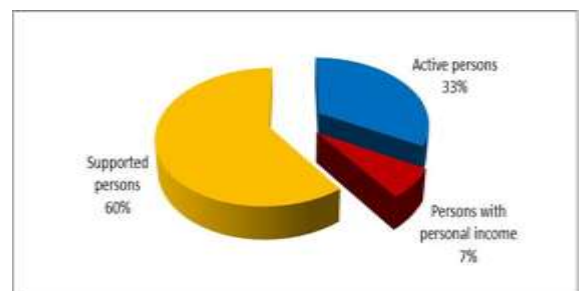
“If, in exchange for transfer of the ownership of real estate, the acquirer commits to provide the transferor with subsistence for life (life annuity contract), he should, in the absence of a contract to the contrary, accept the transferor as a **member of his household, provide him with food, clothing, accommodation, light and fuel, provide him with appropriate help and care in illness and give him a funeral in accordance with local custom at his own expense.**”

## Care two: Spending the inheritance? Bringing people in from the village

Possible for elderly person to consent to a charge or lien being placed on their property in exchange for longer term, usually urban based residential care, Serbia, Knjazevac

### Persons who have changed residence during 2014 of the Republic of Serbia by activity

Source: Statistical Office of the Republic of Serbia, Statistical release, *Internal migrations in the Republic of Serbia, 2014*, Number 186 - year LXV, July 15, 2015





## Care three: Enhanced pensions in exchange for ownership or use rights

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Former EU Early Retirement Scheme: withdraw from farming at 55, transfer land within or outside family. Helped consolidate generational and agrarian changes but not also some unintended consequences – fraudulent registrations, destruction of small farms, loss of expertise, and public health problems.

Land for Pensions Hungary: popular measure (60,000 ha into state land fund), but more perhaps more social rather than land use policy for countering rural poverty. State land funds creating market distortions? Non hereditary rule always necessary?

Romanian Renta Viagera: long leasing and sales, again expensive, but supported under CAP for several years. Transferable, so less painful for owners? But viability outside external support an issue.

## Land Banks, fair division of residual estates and the obligation towards siblings

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In countries and conditions with a strong presumption against sale, managing land on behalf of absent or passive owners can go some way to resolving intra family disputes concerning inheritance. Bolsa de Terras

Could be a possibility for variety of private led arrangements, particular where the land is valuable or in demand. Many Countries..

Where land that is less attractive, arguable that state has a role to play in either facilitating connections between buyers or sellers, or further, creating viable and attractive units through land consolidation and bundling with other land that could come from state reserves or even abandoned land. For the latter, see Bolsa de Terras, Serbian examples.

## Just how fast can the land market absorb small farms?

"Where is the shift toward larger farms strongest? The share of farms less than 2 ha declined dramatically from 2005 to 2013 throughout Poland. The decline was biggest in Warmińsko-Mazurskie (68,56%), and smallest in Podkarpackie (34,51%). The most surprising thing was that the shrinkage did not correspond to those areas with the highest numbers of microfarms, but in those areas where there were more large farms. The Spearman correlation between the number of microfarms in 2010 and the decline in small farms between 2005-2013 is relatively small (0.162). In the same years, the correlation between the share of farms bigger than 20 ha in 2005, and the decline in the share of small farms share between 2005-2013 reaches the stunning level of 0.921".

(W. Kieć and T. Skoczylas 2015)

## Conclusions

Many jurisdictions and policy makers have been slow to respond to the changing meaning of landholding, as a source of family status and value, as a means of food security, as a means of assuring care in elderly years.

Some of these inheritance law and culture clashes are particularly an issue in countries with dual structure of farming

Need to acknowledge the severing of some traditional ties between peasants and land. Need now is to create new ties based on longer, more mobile lives. Saving the good connections between town and country..(Nobre 2001)

Improving land markets, especially leasing can do a lot to allow for untroubled separation between ownership and use.

However, in regions that are disconnected with low land mobility and aging and shrinking populations, good argument for strong counter measures that mobilise private capital and expertise alongside new sound public land institutions (including land banks).

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Thank you for your attention