

Review of the transitional restrictions
maintained by Bulgaria and Romania with
regard to the acquisition of agricultural real
estate

Final Report

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List of Abbreviations

AWU: Annual Working Unit

CAP: Common Agricultural Policy

EEAA: European Economic Area Agreement

ESU: European size Unit

EU-7: Central and Eastern European countries that joined the EU on 1 May 2004 and where a similar restriction regarding the acquisition of agricultural real estate was in place. EU-7 comprises the following countries: Czech Republic, Hungary, Estonia, Latvia, Lithuania, Poland, and Slovakia

EU-12: All countries that joined the EU since 1 May 2004: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia

EU-15: EU member states prior to 1 May 2004: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom

EU-25: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom

EU-27: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom

FDI: Foreign Direct Investment

GVA: Gross Value Added

LC: Land Commission, Bulgaria

MAF: Ministry of Agriculture and Food, Bulgaria

MARD: Ministry of Agriculture and Rural Development, Romania

NACLR: Romanian National Agency for Cadastre and Land Registration

PPS: Purchasing Power Standard

UAA: Utilised Agricultural Area

UNNPR: National Union of Public Notaries, Romania

UNWE: University of National and World Economy, Sofia, Bulgaria

WIIW: The Vienna Institute for International Economic Studies, Vienna, Austria

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Executive Summary

Efficient land transactions and a functioning land market play an important role in economic development and growth. The exchange of land, including the purchase of land by foreigners, will improve productivity, enhance access to capital, technology and knowledge, and hence stimulate economic development. These insights underpin the principle that accession to the EU implies the integration of the accession countries into a single free market, also with respect to land.

During the negotiations for the 2007 accession, however, Bulgaria and Romania requested the possibility to maintain existing national provisions restricting the acquisition of agricultural land or forests by foreigners. They considered these derogations necessary in order to protect the socio-economic agricultural structure of the countries from shocks that might arise from the differences in land prices and incomes with the rest of the Union, and from the problems in the local rural credit markets. The combination of these factors was expected to lead to an undesirable sale of land to foreigners.

Bulgaria and Romania were granted transitional periods during which they could maintain existing provisions of their legislation restricting the acquisition of agricultural land or forests, in derogation of the freedom of capital movement. In that context, a mid-term review of the transitional measures was stipulated to determine whether the transitional periods should be shortened or terminated.

This study reviews these transitional measures and their impact.

The following **restrictions** are in place:

- After accession to the EU, foreigners generally cannot purchase agricultural land for a transitional period of 7 years in Bulgaria and Romania.
- There are exceptions :
 - 1) There are no restrictions for self-employed farmers who wish to establish themselves and reside in Bulgaria and Romania.
 - 2) There are no restrictions for legal entities with foreign capital registered in Bulgaria and Romania.
- There are generally no restrictions on foreigners renting agricultural land.

This study puts the analysis of the land ownership restrictions into a broader perspective by addressing two questions:

- To what extent do the restrictions on foreign ownership affect the efficiency of land exchanges, land allocation and productivity growth?

- To what extent are the factors underlying the concerns of Bulgaria and Romania – that there would be a massive takeover of land by foreigners if these restrictions were not in place – still influential?

Based on the analysis, the study draws the following **conclusions**:

- 1) Restrictions on foreign ownership may have affected the efficiency of land exchanges, land allocation and productivity growth. Yet, the impact is mitigated by several factors.

First, the restrictions do not fully constrict activities by foreign citizens in the agricultural and rural land markets in Bulgaria and Romania, because there are exceptions to the restrictions on foreign ownership of agricultural land. In both countries, legal entities registered in the countries can acquire agricultural land irrespective of the origin of the capital. This exception appears to have significantly reduced constraints on foreign acquisition of agricultural real estate and various pieces of evidence suggest that substantive land acquisitions have been made by such legal entities with foreign capital.

In addition, there are no restrictions on renting land to foreigners. This aspect of the transitional arrangements is of major importance for Bulgaria since land rental is widespread there. In Romania as well, where total land renting is much less, the larger farms, which are the kinds of farms in which one would expect foreign investment, rent around half their land.

Second, the restrictions are only one element constraining the functioning of the land markets in Bulgaria and Romania. Several other impediments are affecting the development of the land markets. In both countries, the development of the land markets is still inhibited by high transaction costs.

Third, while the restrictions have held back the direct benefits of foreign investment, agriculture in Bulgaria and Romania has benefited extensively from large foreign investments in the food industry and agribusiness. These investments have had significant, positive spillover effects on the farms, as foreign companies have introduced technology, know-how and capital into the food chain, which has contributed to greater investment and enhanced product quality in the Bulgarian and Romanian agricultural sector.

Fourth, there has been strong growth in agricultural productivity along with land exchange and reallocation in Bulgaria and Romania, despite the restrictions. It is though unclear how much more growth in productivity and land markets would have resulted from liberalising Bulgarian and Romanian agricultural land with respect to foreign ownership.

- 2) The factors underlying the concerns of Bulgaria and Romania – that there would be a massive takeover of land by foreigners if restrictions were not in place – have diminished, but they have not yet disappeared.

The gap between Bulgaria and Romania and the EU-25 in terms of incomes, productivity and land prices has narrowed considerably over the past few years. Nonetheless, sizeable disparities remain with regard to land prices, incomes and

subsidies from the common agricultural policy (CAP). Despite the marked increase, Bulgarian and Romanian land prices are significantly below those in the EU-25 and particularly below those in the EU-15. The same holds for the average income per capita and value added per worker in the agricultural sector.

In view of the analysis, this study offers the following recommendations.

If the full liberalisation of land, now, or before the end of the transition period, turns out to be politically impossible in the mid-term review process, changes that are more moderate could be considered. The most effective proposals for change would be those that would have limited effect on the social and political frameworks and would be most successful in stimulating economic benefits.

Two recommendations are to i) allow foreign citizens to acquire agricultural land without restrictions up to a certain maximum amount of agricultural land and ii) allow foreign citizens and legal entities to acquire farm buildings and the land on which these are built without restrictions. The law could allow foreigners to acquire agricultural land without restrictions if the plot of land is less than 10 ha (as, for example, in Estonia). In addition, foreign nationals could be allowed to acquire a farmstead formed as an independent real property of, something like, 6,000 m², or real estate could be allowed to build the farm buildings necessary to set up a farm (as, for example, in Hungary where this exception holds for acquiring farmsteads and farm buildings for intensive livestock breeding). Both proposals should have minimal impact on the amount of land owned by foreigners in Bulgaria and Romania, since it would still prevent the purchase of large areas by foreigners. Yet the proposals could result in positive economic effects because they would stimulate the participation of foreign citizens and legal entities in the agricultural markets and allow those foreign citizens and legal entities interested in investing in Bulgarian and Romanian agriculture to do so by combining renting and owning land in their farm operations, as do many farms in the EU-25 and nationals and domestic legal entities in Bulgaria and Romania. As such, foreign citizens and legal entities can also combine tenure security (with their assets and long-term investments concentrated in owned land) and flexibility in land allocation (by renting additional land rather than buying).

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Final Report

**Submitted to the European Commission
Directorate-General Internal Market and Services**

Johan Swinnen and Liesbet Vranken

1. INTRODUCTION

During the accession negotiations, candidate countries requested the possibility to maintain existing national provisions restricting the acquisition of agricultural land or forests. They considered these derogations necessary in order to preserve the socio-economic agricultural structure of the countries from shocks that might arise from the differences in land prices and income with the rest of the European Union, and to be able to pursue an effective agricultural policy. They were also deemed necessary due to an unfinished process of privatisation and restitution of agricultural land to the farmers in some countries.

As detailed in annex VI 3.2 of the 2005 Act of Accession (Bulgaria) and annex VII 3.2 of the 2005 Act of Accession (Romania), these two countries were granted transitional periods during which they could maintain existing provisions of their legislation restricting the acquisition of agricultural land or forest, in derogation to the freedom of capital movement enshrined in the Treaty on the Functioning of the European Union.

The objective of this study is to review these transitional measures and their effects. More specifically, the study will analyse accurately the agricultural sector in Bulgaria and Romania and its evolution since the period of negotiation and accession, compare these findings with the situation in the other Member States of the European Union, take stock of the transitional restrictions effectively maintained by Bulgaria and Romania, review conditions that led to an agreement on transitional measures at the time of accession, analyse their effect on the sector and draw conclusions on their relevance and usefulness, and the necessity or not to maintain them.

The report will be organised in a main report with nine chapters and two country reports.

2. CONCEPTUAL FRAMEWORK

Efficient land transactions and a functioning land market play an important role in economic development and growth for several reasons. First, they provide access to land for the farmers who are the most productive but who own less land than they require. Second, they allow the exchange of land as the off-farm economy develops. Third, they facilitate the use of land as collateral to access credit markets.¹

These insights underpin the principle that accession to the EU implies the integration of the accession countries into a single free market, also with respect to land. The exchange of land, including the purchase of land by foreigners, may have a positive impact on productivity, enhance access to capital, technology and knowledge, and thus stimulate economic development in Bulgaria and Romania – and in the EU as a whole. Hence, in this framework, restrictions imposed by Bulgaria and Romania that constrain land exchanges and the optimal functioning of the land market will also inhibit the positive development effects that could result from land exchanges.

On the other hand, proponents of the restrictions have claimed that their early removal would result in unfavourable short-term outcomes, particularly if large portions of rural land in Bulgaria and Romania were acquired by foreign citizens or companies, because of structural imbalances at the time of accession. Such structural imbalances especially concern a) the sizeable income differences between the EU-25 and Bulgaria and Romania, b) the marked differences in land prices between the EU-25 and Bulgaria and Romania, and c) the problems in the rural credit markets in Bulgaria and Romania. The combination of these factors has been expected to lead to a massive sale of land in Bulgaria and Romania to foreigners.

To understand the current and future impact of the land ownership restrictions from these two viewpoints, we need to put these issues into a broader perspective by addressing two questions:

- 1) To what extent do the restrictions on foreign ownership really affect the efficiency of land exchanges, land allocation and productivity growth? To address this question, it is critical not only to study the effectiveness of current restrictions on foreign ownership of land, but also to put these restrictions into the wider context of a variety of other circumstances that affect the functioning of land markets in Bulgaria and Romania.
- 2) To what extent are the factors underlying Bulgarian and Romanian concerns – that there would be a massive takeover of land in Bulgaria and Romania by foreigners if these restrictions were not in place – still influential? Here it is necessary to assess how land market prices have evolved, how the income gap has changed and how capital markets have developed.

As a general basis for addressing these questions, it is essential initially to identify the restrictions maintained in Bulgaria and Romania and to deal with the issue of obtaining relevant data describing the developments concerned. The approach used in this study consists of the following steps:

¹ See Deininger & Feder (2002) for a review of these issues.

- documentation of the regulations in Bulgaria and Romania on the transitional land restriction and of actual foreign ownership of agricultural real estate (chapter 3 and 4);
- identification of other factors that affect land transactions besides legal restrictions, such as constraints and imperfections in other markets, transaction costs in land markets and imperfect property rights (chapter 5);
- documentation of foreign investments in the agricultural and food sectors in Bulgaria and Romania and a discussion of their implications (chapter 6);
- analysis of the indirect impact of EU accession on the rural land markets in Bulgaria and Romania, i.e. through channels other than those that imply a change in demand and supply – and hence also the prices - of agricultural land (e.g. through the introduction of support measures under the CAP) (chapter 7);
- documentation of how the land markets (in terms of transactions as well as prices and values) have evolved over the past few years (chapter 8); and
- analysis of key indicators of agricultural performance in Bulgaria and Romania over the past decade (both before and after accession) and a comparison of these with EU-25, EU-15 and EU-7² indicators (chapter 9).

The final chapter presents the main conclusions arising from the analysis.

It is important to point out, however, that a major contribution of this study is the collection of basic information and data on what is happening in the land markets in Bulgaria and Romania and the identification of gaps in the data regarding the development of land market and the involvement of foreigners in this market. Appendix 2 provides more detailed information about the data sources.

² With EU-15 we refer to the Member States of the European Union prior to the accession of ten candidate countries on 1 May 2004. The EU-15 comprises the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

With EU-25, we refer to the Member States of the European Union prior to the accession of two candidate countries on 1 January 2010. The EU-25 comprises the following countries: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

With EU-7 we refer to the Central and Eastern European countries that joined the EU in 2004 and where a similar restriction regarding the acquisition of agricultural real estate was in place (Czech Republic, Hungary, Estonia, Latvia, Lithuania, Poland, and Slovakia).

3. LEGAL RESTRICTIONS MAINTAINED BY BULGARIA AND ROMANIA WITH REGARD TO THE ACQUISITION OF AGRICULTURAL REAL ESTATE BY FOREIGNERS

3.1 Overview of the restriction

Appendix 1 provides in detail the legal framework regarding the rights of foreigners to acquire agricultural real estate. Here we explain the restrictions maintained by both Bulgaria and Romania. The main restrictions are:

1. After accession to the European Union, foreigners generally cannot purchase agricultural land for a transitional period of 7 years in Bulgaria and Romania.
2. In both Bulgaria and Romania, it is possible for foreigners to acquire ownership of agricultural real estate under certain conditions (Table 1 and section 3.2 provide details on these conditions.).
3. In both Bulgaria and Romania there are no restrictions for foreigners with respect to renting land.

Table 1: Legal restrictions on the acquisition of agricultural land in Bulgaria and Romania

	Bulgaria	Romania
<i>Can EU citizens buy agricultural land despite the restriction?</i>	Yes, if they are self-employed agricultural producers who wish to settle and reside permanently in Bulgaria and are established by the BULSTAT Register Act	Yes, if they are independent farmers who want to establish residence in Romania and can prove their ability to farm.
<i>Can a legal entity buy agricultural land?</i>	Yes	Yes
<i>Can a legal entity, which is registered in the country, but which is owned by foreigners buy agricultural land?</i>	Yes	Yes
<i>Can EU citizens rent/lease agricultural land?</i>	Yes	Yes
<i>Can a legal entity rent/lease agricultural land?</i>	Yes	Yes
<i>Can a legal entity, which is registered in the country, but which is owned by foreigners, rent/lease agricultural land?</i>	Yes	Yes

Source: Authors compilation.

3.2 Country-specific restrictions

The differences among Bulgaria and Romania and the EU-7 in terms of the legal restrictions on the acquisition of agricultural land are summarized in table 1 and 2, respectively. As we will document below and analyse further, the restrictions in Bulgaria and Romania are relatively less constraining than in some of the EU-7 countries, in particular because they have no restrictions on land acquisition by legal entities which appears to be the main mechanism of investment by foreigners interested in farming in Bulgaria and Romania.

3.2.1 Bulgaria

In Bulgaria, there are also restrictions on the acquisition of agricultural land by nationals of another EU Member State, by nationals of the States which are a party to the European Economic Area Agreement (EEAA) and by legal persons formed in accordance with the laws of another EU Member State or an EEAA State until 1 January 2014. However, there are some exceptions for those willing to acquiring agricultural real estate in Bulgaria (Constitution of the Republic of Bulgaria³, article 22; *Ownership and Use of Agricultural Land Law*, article 3a and article 3b).

First, agricultural and forest land may be acquired by those citizens of the European Union who are self-employed agricultural producers and wish to settle and reside permanently in Bulgaria. They are required to be recorded in this capacity according to the procedure established by the BULSTAT Register Act (*Ownership and Use of Agricultural Land Law*, article 3a, State Gazette no 24 of 2007).

Second, legal entities are allowed to hold and acquire land without restrictions as long as they are registered in Bulgaria. The share of foreign participating capital does not matter. Non-resident foreigners can acquire agricultural and forestry land if they establish or participate as shareholders in a legal entity.

Third, foreigners who inherit agricultural or forestry land in Bulgaria are obliged to transfer their ownership rights to a resident natural person or a legal entity within three years after the opening of the succession (*Ownership and Use of Agricultural Land Law*, article 3b, State Gazette no 24 of 2007).

Box 1: Land Reform and State Land in Bulgaria

In Bulgaria, the land reform restituted effective land property rights to former landowners. In the first transition years, farm restructuring and land reform were subject to intense political debate, which had a strong impact on the reforms (Swinnen, 1997). As a result of political changes in the government, the *Ownership and Use of Agricultural Land Law* has changed more than 20 times since its adoption. Continuous changes in legislation created an uncertain environment.

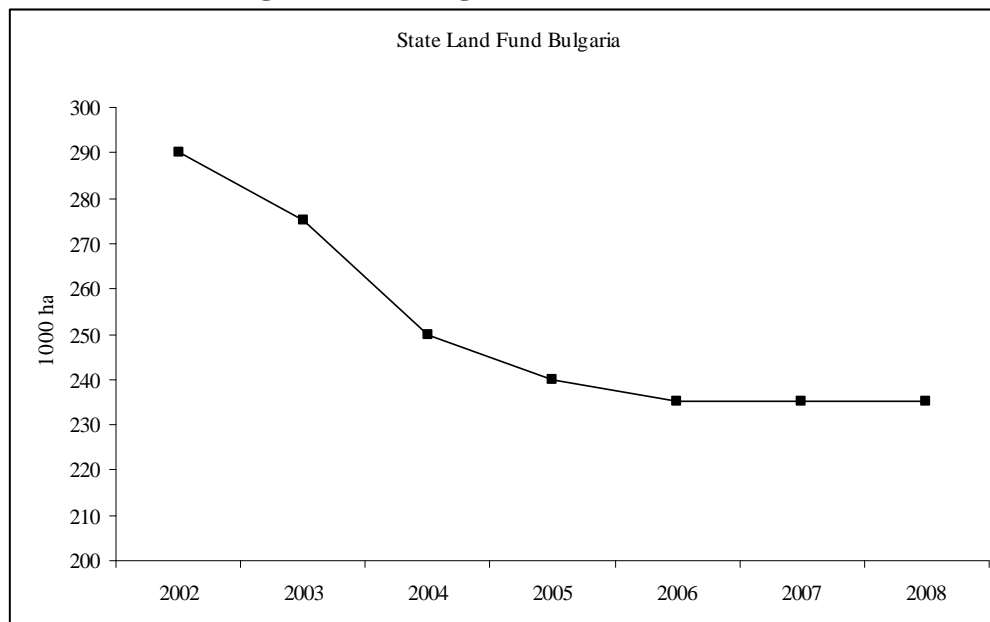
³ With effect from 13.07.1991 on Prom. SG. br.56 of 13 July 1991., amend. SG. br.85 of 26 September 2003., amend. SG. issue 18 of 25 February 2005., amend. SG. issue No 27 of 31 March 2006., amend. SG. br.78 of 26 September 2006., amend. SG. br.12 of 6 February 2007.

Land restitution was slowed by poor information on farmer land ownership. In many villages, former registers with land ownership information of the pre- collectivisation period were missing (burned, disappeared, etc.). This forced the Land Commissions (LCs) responsible for land restitution to accept all kind of evidence that might prove land ownership prior to 1948. As a result, LCs' decisions were contested and land reallocation plans were rejected. Court appeals arose and suspended the market reallocation of land. There were many land conflicts in the villages during the land restitution process also because of people's attachment to pre-collectivisation land plots and because of alleged power abuse by LC members.

The land restitution process lasted 4-5 years but is completed by now. Currently, land titles are distributed and land plots are clearly defined and delineated. Part of the agricultural land in Bulgaria is owned by the state and managed through the State Land Fund. The amount of land owned by the State Land Fund decreased until 2006, but remained constant afterwards as the restitution process was completed (see figure B1.1). The State retains ownership of agricultural land in the following cases:

- Land available to the research, science and educational institutions
- Land given to the Ministry of Transport, Ministry of Regional Development and Public Works, Ministry of Defense and Ministry of Interior
- Land given to the places of detention
- Land given to tribal and seed farms, nurseries and orchards, pepinieris and nurseries, forest nurseries and hunting
- Land given to schools, universities and other educational institutions

Figure B1.1: Bulgarian State Land Fund



Source: Ministry of Agriculture and Food (MAF)

3.2.2 Romania

Currently, there is a restriction on the ownership of agricultural land by foreigners, where the term “foreigner” is defined as a natural person who has no permanent residence in Romania or a legal person not established in Romania (Act of Accession 2005, *Law no 247/2005 on the Reform in Ownership and in Justice* of 19/07/2005 article 3 and article 8, published in Romania’s Official Gazette no. 653 of 22/07/2005; Act Accession, *Law no 312/2005 on Acquiring the Private Land Ownership Right by the Foreign Citizens and Stateless Persons, as well as by the Foreign Legal Entities* of 10/11/2005 article 5 and 7, published in Romania’s Official Gazette no. 1008 of 14 November 2005).

At the same time there are some exceptions and practical limitations.

First, according to the Act of Accession, this restriction is not applied to independent farmers (natural persons) who are citizens of an EU Member State (or stateless persons having their domicile in Romania or an EU Member State), and wish to establish their permanent residence in Romania. These farmers can buy land without restriction as far as they can prove their ability to farm with documents issued by the EU Member state (Law 312/2005, article 5).

Second, all foreigners (so not only those from EU Member states) can acquire land through inheritance.

Third, legal entities are allowed to acquire land regardless of the origin of their capital (*Law no 247/2005*, article 3). Hence foreigners who establish a firm in Romania can buy agricultural land without restriction if they establish a domestic legal entity.

Fourth, in some cases, even foreign legal companies are allowed to acquire agricultural and forestry land. According to the Act of Accession, *Law no 312/2005*, article 7, a commercial company, either resident or non-resident legal entity, can acquire any real rights on immovable assets to the extent necessary for carrying out its activities, according to its social objectives, while respecting the legal provisions regarding the acquisition of ownership right on land by the foreign citizens and stateless persons, as well as by the foreign legal entities.

Box 2. Land Reform and State Land in Romania

The land reform process in Romania, which started in the early 1990s, was regulated by the *Land Law no 18/1991*. The application of this *Land Law no 18/1991* resulted in the dismantling of the majority of the cooperative farms and the restitution of land to former owners. The change of the government at the end of 1996 led to modifications to the agricultural land ownership regime. The most important event was the promulgation of *Law no 54/1998 on the Legal Circulation of Land* and *Law no 1/2000 on the Ownership Right Reconstitution on Agricultural and Forest Land*. The last corrections related to agricultural land ownership occurred in 2005. The *Law no 247/2005 on the Reform in Ownership and Justice* modified *Law no 18/1991* and *Law no 1/2000* and resulted in new provisions on the circulation of land in order to liberalize the land market and speed up trials related to the land properties restitution. *Law no 247/2005 on the Reform in Ownership and Justice* replaced *Law no 54/1998* with the provisions from *Title X Legal Circulation of Land*⁴.

During the land restitution process, more than 10 million hectares of land had to be restituted to more than 4 million beneficiaries. This was of course a quite complex task. However, good progress has been achieved so far and the restitution process is virtually completed. By 2009, 10.5 million hectares of land were restituted and 4.6 million titles were issued.

In 2005, around 16% (or 2.2 million hectares) of all agricultural land and 4% (or 0.3 million hectares) of all arable land in Romania was in ownership of the State or local authorities and could be used for restitution of pending land title (Table B2.1). Between 2005 and 2009, around 0.6 million hectares of this land have been restituted so that the area of state and municipality land decreased to 1.6 million hectares. Since the restitution process is virtually finished, this land will remain in state and municipality ownership and will be rented out to private operators.

Table B2.1: Restitution of land titles in Romania

	Titles issued	Land restituted
1991-2003	4.137.399	9.366.426
2004	156.587	417.355
2005	67.018	139.464
2006	64.194	124.677
2007	81.810	194.175
2008	68.655	159.563
2009	54.273	121.298
1991-2009	4.629.936	10.522.959

Source: Ministry of Agriculture and Rural Development (MARD)

⁴ Law no 247/2005 has 17 chapters named 'titles'.

Table 2: Legal restrictions regarding the acquisition of agricultural land in the EU-7 at the moment of the mid-term review (2007)

	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Poland	Slovakia
<i>Can EU citizens buy agricultural land despite the restriction?</i>	Yes, • if married with Czech partner • if s/he has been staying and farming in the country for at least 3 years, then s/he can buy any parcel in the country.	<u>Plots < 10 ha:</u> Yes. No additional conditions have to be fulfilled. <u>Plots > 10 ha:</u> Yes • if married with Estonian partner • if s/he has been staying and farming in the country for at least 3 years, the particular plot that s/he has been renting can be bought.	Yes, • if married with Hungarian partner • if s/he has been staying and farming in the country for at least 3 years, the particular plot that s/he has been renting can be bought.	Yes, • if married with Latvian partner • if s/he has been staying and farming in the country for at least 3 years, the particular plot that s/he has been renting can be bought.	Yes, • if married with Lithuanian partner • if s/he has been staying and farming in the country for at least 3 years, then s/he can buy any parcel in the country.	<u>Plot < 1 ha not located in border zones:</u> Yes, • if residing in Poland for at least five years • if married to a Polish citizen <u>Other plots:</u> • if married to a Polish citizen • if s/he has been staying and farming in the country for at least 3 years, the particular plot that s/he has been renting can be bought.	Yes • if married with Slovakian partner • if s/he has been staying and farming in the country for at least 3 years, the particular plot that s/he has been renting can be bought.
<i>Can a legal entity buy agricultural land?</i>	Yes	Yes	No	Yes	Yes	Yes	Yes
<i>Can a legal entity which is registered in the country, but which is owned by foreigners buy agricultural land?</i>	Yes	Yes	No	Yes, if minority of shares is owned by foreigners	Yes	Yes, if minority of shares is owned by foreigners	Yes

	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Poland	Slovakia
<i>Can EU citizens rent agricultural land?</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Can a legal entity rent agricultural land?</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Can a legal entity which is registered in the country, but which is owned by foreigners rent agricultural land?</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes

4. ACTUAL FOREIGN OWNERSHIP OF AGRICULTURAL REAL ESTATE

In general, there are no official data on foreign ownership of agricultural real estate. However, information collected from various sources suggests that there is substantial foreign ownership of agricultural real estate in both Bulgaria and Romania.

In Bulgaria, there is no official statistical information about either foreign ownership of land or traded and leased/rented land by foreign physical and legal entities.

There is representative and official data which shows substantive inflows of foreign capital in agriculture and forestry. This information is analyzed in greater detail in section 6. However, these data do not provide evidence of actual ownership of agricultural real estate by foreign investors.

There is substantial anecdotal evidence of foreign involvement in the agricultural sector and also of purchasing land by foreign investors through legal entities. In particular, some large investment funds with foreign participation have acquired substantial amounts of agricultural real estate. Box 3 and 4 provide examples of two different cases of such investment funds.

In summary, while there are no official data, there is evidence that there is important foreign ownership of agricultural land in Bulgaria.

BOX 3: Foreign involvement in Bulgarian agriculture. The case of Winslow Group JSC

Winslow Group JSC was established in 2003 through a Bulgarian - British partnership. The company has several business activities. Winslow Agro Fund (WAF) is a separate division of Winslow Group. WAF's farm management business, which was started in 2004, is located in Parvomai (Municipality of Parvomai, Plovdiv Region), in Southern Bulgaria. The main activity of WAF is acquisition of agricultural land and production of agricultural products.

They initially started with 130 ha in 2005/2006, Winslow now farms over 4 000 ha of land, both owned and rented, and produces wheat, maize, sunflower, rape and barley. Besides its investments in land, WAF recently invested over 2.5 million euros in top quality specialized agricultural machinery, a large farm base with warehouses and depot, and an office and accommodation in Parvomai and Plovdiv.

Currently, the company owns more than 2 500 ha of high quality arable land, which is primarily concentrated into five zones within the most fertile areas of Bulgaria. Within the next few years WAF plans to establish 3 new farms in addition to the existing ones.

BOX 4: Foreign involvement in Bulgarian agriculture. The case of CERES

Ceres was established in April 2006 with the objective of acquiring a portfolio of agricultural land in Bulgaria. At present, Ceres is the third largest fund investing in farmland in Bulgaria.

The current capital of Ceres is approximately €45 million and consists of both monetary and in-kind (land) contributions by shareholders provided in three capital increases.

In May 2008, Ceres owned more than 22.000 ha and the management believes that Ceres has the opportunity to enlarge its land holdings to more than 25.000 ha.

The investment vehicle of Ceres is a joint stock company registered under the Bulgarian Commercial Law. The list of shareholders of CERES includes experienced international and local investors with extensive background of projects in the region. Amongst the big institutional investors are Raiffeisen Centrobank AG, global investment funds like Firebird Management, Black River Asset Management, and Mezzanine Management, as well as private equity companies such as Rosslyn Capital Partners. Some Ceres' investors are foreign investment bankers.

Formal objectives of the company are to:

- Focus on regions that offer an attractive combination of price and quality with good potential for large-scale agriculture, and where sizable holdings can be concentrated;
- Add value by further consolidating the plots and rent out substantial portions of the land to agricultural producers;
- Develop own agricultural business projects to boost current income, take utmost advantage of any EU subsidies, get more financial leverage and ensure faster consolidation of acquired land;
- Vertical integrate the whole business of the fund - owning agricultural land, cultivating it, and delivering of added value end products.

In Romania, there is no official information about either foreign ownership of agricultural land or about land traded or rented by foreign natural persons and legal entities.

Indicators on the importance of foreign ownership can be though derived from various sources.

First, there is representative and official data which show substantive inflows of foreign capital in agriculture and forestry. This information is analyzed in greater detail in section 6. However, these data do not provide evidence of actual ownership of agricultural real estate by foreign investors.

Second, since land that is bought by firms which are registered as Romanian legal entities but with foreign participating capital falls into the same category as land owned by legal entities without foreign participation, it is difficult to know how much agricultural land is actually in foreign ownership. However, we do know that, by 2005, 34.000 hectares of agricultural land were bought by foreign investors, being firms that benefited from the law stimulating direct investments (Emergency ordinance no 92/1997) and that this amount augmented to 38.000 hectares in 2006

(see Table 3). According to article 6 of Emergency Ordinance no 92/1997, any investor, resident or non-resident legal entity, can acquire any real rights on movable and immovable assets to the extent necessary for carrying out its activity, according to its social object, while respecting the legal provisions regarding the acquisition of ownership rights of land by foreign citizens and stateless persons, as well as by the foreign legal entities. (Emergency Ordinance no 92/1997 was replaced by the Act Accession, Law no 312/2005 of 10/11/2005, article 7 (see above)). This article implies that incentives for foreign investors should not contract the Constitution provisions and allows any foreign legal person resident in Romania and registered at Foreign Investment Agency to purchase land. However, agricultural ownership is conditional in the sense that it may not be in contraction with the Constitution of Romania. Therefore, it is sometimes described as land ‘hold’ instead of ‘owned’ by foreign investors.

Table 3: Land hold by foreign investors in Romania*

Ha	Total land	Agricultural land	Arable land
2005	37.063	34.558	28.939
2006	40.523	37.923	32.424

* With foreign investors we refer to foreign legal entities and foreign natural persons.
Source: NACLAR – Romanian National Agency for Cadastre and Land Registration

Third, there is substantial anecdotal evidence on foreign participation in the agricultural land market.

- The county Timis in Romania is known for its very active land market. From 1998 till 2005, around 135.000 hectares of land have been sold, which is more than one quarter of all land transactions registered in Romania in that period. Land was bought both by Romanian natural persons and by commercial companies registered in Romania. According to the Agricultural Directorate in Timis, in early 2003, 39 commercial companies with Italian capital were operating in this county, each cultivating more than 100 ha. In total these companies with Italian capital were operating about 25.000 hectares of agricultural land. The largest part of land that they were operating was in the ownership of the respective companies. Only 7 out of the 39 commercial companies operated also on rented land. By 2009, according to estimates from experts of the Agricultural Directorate in Timis, around 150.000 hectares are operated by companies with Italian capital, which is about one-third of the agricultural area in the county area. According to the same experts, these companies with Italian capital led to the transfer of advanced technologies and a more intense commercial activity through stimulation of both the domestic and export market.
- About twenty French farmers, organized as commercial companies with Romanian legal status, are mainly active in the Southern part of the country. Some of them started their activity in Romania relatively fast after the start of the reforms (between 1994 and 1997), but most of them started after 2000. Besides 2 viticultural farms which operate less than 100 hectares, these French farmers operate large areas of around 1.000 ha of agricultural land, some of them even 3.000 ha.

- At the end of the year 2009, the Dutch Embassy was in contact with about 20 Dutch farms which were active in Romania. Most of them were dairy farms located in Transylvania (the central and western part of Romania), and were cultivating several hundreds hectares each.

Fourth, this anecdotal evidence is consistent with press reports. Information on the agricultural land markets in written press reveals that, in the post-accession period, certain real estate agencies are clearly oriented towards the sale and purchase of agricultural land, and the procurement of agricultural land by the large agri-food companies and investment funds. For example, the procurement of about 3.000 ha by the Dutch company First Farms was reported in 2007. In March 2009, the procurement of more than 25 thousand ha of agricultural land by the Dutch investors Ingleby, Agro Sys Invest, First Farms, Dangro Invest and Jantzen Development was reported (at prices ranging from 1.500 to 4.000 euro/ha). Further, the press reported that the local branch of the Italian company producing Riso Scotti rice is cultivating about 7.200 ha of agricultural land in the counties Braila, Ialomita, Dolj and Olt (along the Danube).

Fifth, certain real estate agencies in Romania explicitly target non-Romanian buyers in advertising the purchase of agricultural land by explicitly stating in their advertisements that anyone can buy agricultural land and that one simply needs to form a Romanian limited liability company and declare "agriculture" as its object of activity.

Representatives of real estate agencies also explained that, in general, foreign investors are looking for compact areas, of over 500 ha. (Real estate agencies ask about 2.200-2.500 euro/ha for such land in counties such as Braila or Mehedinti.) However, they explained that the lack of consolidated parcels of land together with problems related to cadastre and land ownership registration in the land book are limiting the purchase of agricultural land by foreigners.

Sixth, our expert survey (see appendix 1 for details) also indicated the importance of foreign investments in land. According to almost 70% of the respondents, a typical buyer of agricultural land is a foreigner. Half of the respondents indicated to know at least one foreigner interested in buying agricultural land. Only one third of the respondents were informed about the existence of the restrictions related to the acquisition of agricultural real estate, while the other 2/3 of the respondents were not aware of the existence of the restrictions.

In summary, all these sources of information point at a similar conclusion, which is that foreigners are already playing an important role in the Romanian land market despite the restrictions.

5. FACTORS THAT AFFECT LAND TRANSACTIONS

The first question we have to address is the extent to which these restrictions on foreign ownership, as described in chapter 3, affect the efficiency of land exchanges, land allocation and productivity growth. To address this question, it is essential to put the effect of the restrictions on foreign land ownership into a broader perspective, alongside a variety of other factors that influence the functioning of land markets in general and those in Bulgaria and Romania in particular. More specifically, two (sets of) factors need to be taken into consideration:

- a) The restrictions that have been imposed by Bulgaria and Romania solely concern restrictions on *ownership* of agricultural land by foreigners. They do not constrain land transactions in the form of renting land or ownership of land by legal entities with foreign participation or by farmers who want to establish themselves in the country.
- b) Other factors that affect land transactions (besides legal restrictions on foreign ownership) include mainly constraints and imperfections in other markets, such as (rural) capital markets, insurance markets and other input markets. Transaction costs in land markets and imperfect property rights can also play an important role.

In the rest of this chapter, we explain how these other factors can have a bearing on land transactions and hence how they would shape the impact of the transitional restrictions imposed in Bulgaria and Romania. We start by comparing renting versus sales transactions and then move on to discuss the second set of factors.

5.1 Land sales versus rental transactions

As previously noted, the restrictions imposed by Bulgaria and Romania concern the ownership of agricultural land by foreigners. They do not prevent foreigners from accessing land through rental.

Renting land is a very widespread form of agricultural land transaction in many developed countries, including the US and several EU-25 countries, where sometimes more than half of all agricultural land is rented by farms, although there are large differences among countries. Table 4 presents aggregate indicators of the prevalence of renting as a share of the total agricultural land used. Among the EU-15 member states, we observe substantial variations in the proportions of land rented. For example, in Belgium, where tenants are highly protected by the land rental policy, almost 70% of the cultivated land area is rented, while in Italy, where the policy aims at stimulating owner-cultivation, only 28% of the cultivated land is rented.

In the EU-7, land renting is also widespread, but there are substantial variations in the importance of renting among these countries. The highest share of land renting is in Slovakia and the Czech Republic where around 90% of the cultivated land area is rented.

Land renting is also very prominent in Bulgaria (almost 80% of total land). Around 50% of the land is used by corporate farms (companies or co-operatives), while the

rest is used by sole traders⁵ (around 15%) and natural persons (around 35%), which are typically family farms. The land used by large corporate farms and sole traders is mostly rented from households - hence 79% of total agricultural land was rented in 2007. The remaining of the land is used by small family farms who mostly work on their own land.

Renting is less important on aggregate in Romania, as only 17% of agricultural land is rented. Romania (or at least the majority of the country) can be characterized as a labour intensive agricultural economy where land was distributed in kind to rural households and where 65% of agricultural land is used by farms of which the holder is a natural person (typically small scale family farms). In such countries, there is relatively little land renting. However, also in Romania, renting is important for the large scale farms who cultivate 35% of the utilized agricultural land. As we will document further in the report, they rely importantly on renting for accessing land (Swinnen et al., 2006; Luca and Alexandri, 2010).

Table 4. Share of rented land in total agricultural area (%), 2005 and 2007

	2005	2007
Slovakia	91	89
Czech Republic	86	83
Malta	80	81
Bulgaria	76	79
France	72	74
Belgium	67	67
Germany	62	62
Luxembourg	54	57
Hungary	57	56
Cyprus	50	54
Estonia	48	50
Lithuania	53	48
Sweden	40	39
Finland	34	34
Greece	32	32
United Kingdom	31	32
Denmark	25	29
Slovenia	30	29
Italy	23	28
Austria	26	27
Spain	28	27
Latvia	24	27
Netherlands	26	25
Portugal	24	23
Poland	20	20
Ireland	18	18
Romania	14	17

Source: Eurostat.

⁵ Sole trader describes a business that is owned and controlled by one person, although the business may employ people. Generally speaking sole traders adopt a trading name (doing business as) and therefore the business has no separate legal existence. As a result, the sole trader i.e. the owner, although entitled to receive all of the net income, is also personally liable for the debts of the business. This is referred to as “unlimited liability”.

5.2 The efficiency of land sales and rental transactions

Does the form of these land transactions (rental or sales) matter for efficiency? The sale of land is often considered a superior form compared with renting it. The arguments supporting the optimality of land sales are that a) land sales transfer full rights to the new user; b) they are more likely to increase access to credit, as owned land can be used for collateral purposes; and c) they provide optimal incentives for investment by entailing a permanent security of rights (Binswanger et al., 1995).

These conclusions rely though on a number of simplifying assumptions, which are not always consistent with reality, and especially not with reality in transition countries – or in the EU for that matter.

Imperfections in input, product, credit and insurance markets all affect the functioning of land markets. Credit or capital market imperfections play a crucial role, especially for land sales transactions.

Capital market imperfections may hamper the efficiency of land sales markets in several ways. First, where capital markets work imperfectly, land purchases typically have to be financed out of own savings. Second, where financial markets do not work well or where confidence in money as a repository of value is low, land may be used to store wealth and may be acquired for speculative purposes. Third, land may be purchased or retained as a hedge against inflation, or as an investment asset in the absence of alternative investments or hedging options. Fourth, with constrained access to credit, investment in land ties up much needed capital, which prevents farmers from using these savings for investment in technology, equipment or quality inputs. Finally, people hold land for many reasons other than for production, such as prestige, lifestyle and family traditions, leading wealthy and politically connected households to accumulate large tracts of land. Some of these factors also make the sales price of land typically higher than its productive value.

Moreover, transaction costs in land sales can be high – not only with respect to the notary fees and so forth, but also the costs of enforcing property rights and obtaining access to the necessary documents and approval from local officials, which may be costly owing to corruption or inefficient administration. Transaction costs imply that a premium needs to be paid by the buyer and that significant losses can be incurred by buying and re-selling land, and hence they prevent flexible adjustments of land use through land sales.

All this has important implications for efficiency. An efficient land market would transfer land from users who are less productive to those who are more so. The arguments outlined above indicate that it is expensive and difficult for efficient producers to buy land; they also reduce the incentives for less efficient producers to sell their land. These factors suggest that land markets require a premium over the expected production value to be included in the sales prices. As these constraints on the land market limit the transfer of land from less efficient to more efficient users, efficiency losses incur. For example, as transaction costs in land sales are large, owners and farmers have a difficult time adjusting their land to their other production factors and to changed market conditions. This situation leads to suboptimal land

allocation. Similarly, as owners hang on to land for reasons of speculation, insurance or hoarding wealth, land will not be used in the most productive way.⁶

In such environments, land rental may have advantages over sales:

- allowing more flexible adjustments of the land area used with relatively low transaction costs;
- requiring only a limited capital outlay, thereby leaving more liquidity available for productive investments rather than locking it all up in land;
- facilitating an easy reallocation of land towards more efficient users than the current owners; and
- providing the possibility of a stepping stone towards increased land use and ownership by the poorest.

These issues were highly relevant for Bulgaria and Romania in the 1990s and early 2000s. Transaction costs for land sales were very high during the transition period, where sales were not permitted at all. Also, flexible exchange options were particularly important in times of uncertainty. During the transition period, farms and landowners were often uncertain about how market conditions would evolve and how institutions and laws would change. In such conditions, flexible and short-term rental contracts may be better choices than sales or long-term contracting – for both sides of the transaction.

That being stated, rental markets are not perfect. There can be problems with a) investment incentives owing to the lack of long-term security; b) access to credit, as one cannot use rented land as collateral; and c) segmentation of land rental markets with insecure property rights.

Several of these potential problems depend heavily on the provisions of the rental contracts, the institutional environment affecting property rights and enforcement costs, and on the government regulation of rental contracts. For instance, in several Western European countries, governments have introduced legislation stipulating a minimum duration of rental contracts of several years in order to guarantee tenants sufficient security of land operation. Yet, problems of overregulation have also occurred (Swinnen, 2002).⁷

The investment disincentive effect depends crucially on the nature of the required investments, and one should expect the length of the investment depreciation to be correlated with the length of the tenure security required. This factor helps to explain why farms may prefer a combination of owned and rented land.

⁶ It should be noted that these constrictions on land sales markets are not only significant for the efficiency of the land market, but also for equity and poverty reduction. In many cases, the poor are disproportionately affected by imperfect credit and insurance markets. Also, the role of land as a source of hedging and wealth is more important for them. Consequently, these imperfections tend to reduce disproportionately the benefits that the poor could obtain from participation in the land markets.

⁷ In most Western European countries, the extensive regulation of land rental contracts has created tensions, as it has constrained the dynamic use of land and growth. Moreover, it has led to perverse effects, as landowners are no longer interested in renting land to farmers and prefer to sell it (see Swinnen et al., 2006, for an overview of these regulations).

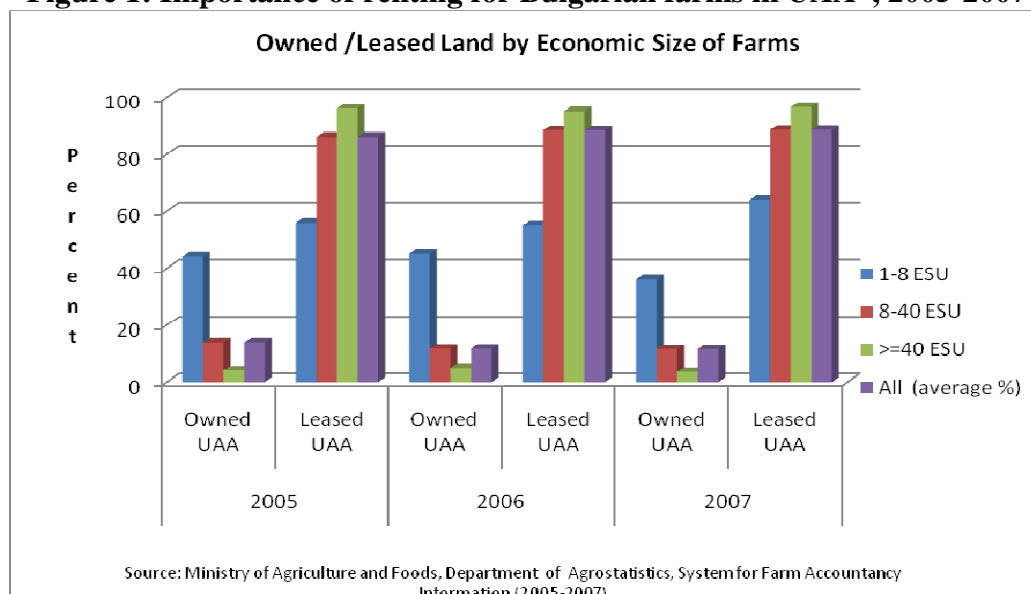
One of the main advantages of rental in comparison with sales transactions in capital-intensive agricultural systems – such as those in the EU and the US – is that with the possibility of using other assets as collateral, farms prefer investing in new technology and farm-specific assets rather than tying up large sums of capital in land purchases. Many farms use both owned and rented land in their operations. According to the US Department of Agriculture, commercial farms rent on average about half the land they use in the US. In Western Europe, many farms both own and rent land, and the proportion of such mixed land use increases with the size of the farm (Feenstra, 1999). In this way, farms in these countries combine tenure security (with their assets and long-term investments concentrated in owned land) and flexibility in land allocation on the one hand, with freeing up capital for other investments (by renting additional land rather than buying it) on the other.

5.3 Land tenure and farm structures in Bulgaria and Romania

We find evidence that a similar process is happening in Bulgaria and, to a lesser extent, in Romania.

In Bulgaria, the vast majority (79%) of the agricultural land was rented in 2007. However, the ratio owned/rented land varies with the size of the farms. Figure 1 clearly illustrates how the importance of renting increases with the size of the farms. The smallest farms (1 to 8 ESU⁸) rely for cultivation for around 40% on owned land, while they are renting in the remaining of the land. The larger farms rely more heavily on rented land for their cultivation. Farms with an economic size between 8 and 40 ESU rent in 87% of the land they cultivate, while the largest farms, being those with an ESU larger than 40, rent in 96% of the land they cultivate.

Figure 1: Importance of renting for Bulgarian farms in UAA*, 2005-2007



* UAA: Utilised agricultural area

⁸ ESU: European Size Unit. The economic size of farms is expressed in terms of European Size Units (ESU). The value of one ESU is defined as a fixed number of EUR/ECU of Farm Gross Margin. Over time the number of EUR/ECU per ESU has changed to reflect inflation.

In Romania, renting is much less important on aggregate. As already indicated in Table 4, it has the lowest share of renting in the EU-27⁹ although renting has increased in recent years (from 14% of the total agricultural area in 2005 to 17% in 2007). However, as in Bulgaria and in most other countries, the importance of renting is related to the farm structure. Table 5 shows how the low aggregate number for Romania comes from the many small farms in this country. Romanian “individual holdings” (typically small farms) mainly cultivate land they have in ownership (more than 85%) and rent in only a very small share of the land they use (around 6%). Land renting is more important for the legal entities (typically larger farms), as they rent more than one-third (36% in 2007) of their land, and the share is increasing in recent years – although it is still much lower than for example in Bulgaria.

Table 5: Land tenure modalities of Romanian individual holdings and legal entities, 2005 and 2007

	2005		2007	
	Individual holding	Legal entity	Individual holding	Legal entity
<i>Utilized agricultural area (thous. ha)</i>	9102,0	4804,7	8966,3	4786,7
<i>of which (%)</i>				
<i>In ownership</i>	86,3	52,3	85,5	50,2
<i>Rented in</i>	5,8	29,5	6,6	35,9
<i>Other modalities</i>	7,9	18,2	7,9	13,9

Source: National Institute of Statistics, Romania

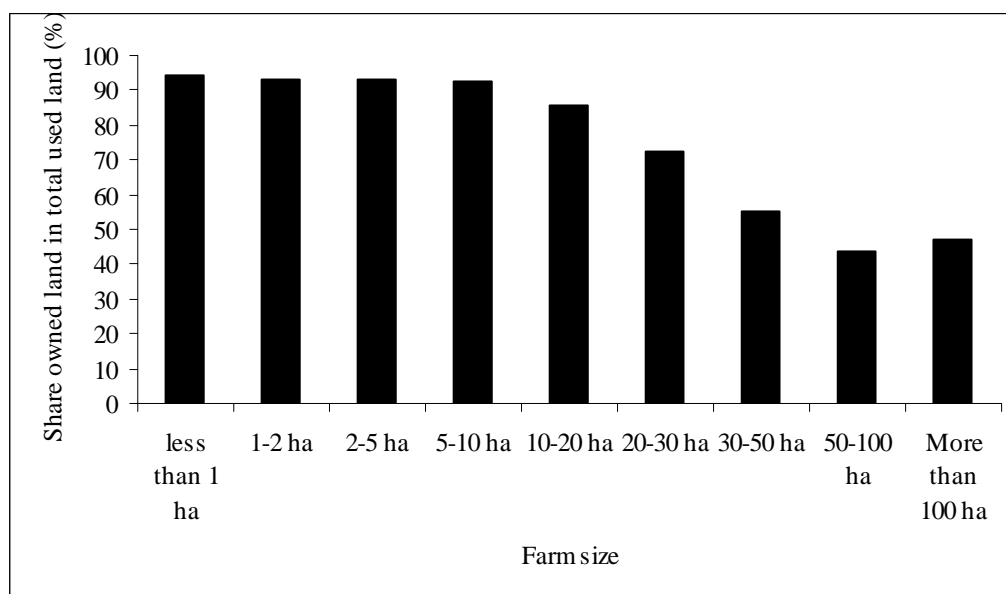
Figure 2 provides further evidence on the positive relationship between land renting and farm size. Renting increases from less than 10% of the land used by farms smaller than 10 hectares to 50% and more for farms of more than 50 hectares.

A key point to emphasise in this discussion is that the larger farms are presumably those in which foreigners would most probably be investing, and more precisely that a large share of agricultural land used for these farms is rented, rather than owned. Still, most farms would prefer a combination of renting and owning land, and the balance between the two is likely to depend on the characteristics of the farm activity.

This observation that renting increases with farm size captures two effects. The one just described above that capital constraints shift the preferences of farms beyond a certain size towards renting land over buying it, and a second effect that stems from a combination of the history of land use and ownership in Bulgaria and Romania and transaction costs in land markets (which themselves were influenced heavily by the 1990s land reforms).

⁹ With EU-27, we refer to the Member States of the European Union as of the 1st of January 2007. The EU-27 comprises the following countries: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom

Figure 2. Share of owned land in the total amount of land used (%), Romania 2007



Source: National Institute of Statistics, Romania

Across all Central and East European New Member States¹⁰ of the EU, there is a striking positive correlation between the prevalence of land rental at the country level and the proportion of corporate farms in total land use (Swinnen, et al., 2006). While corporate farms own little land, they use a lot of land in some countries, almost all of which is rented. In Bulgaria, around half of the total agricultural land area is used by corporate farms, while in Romania 35% is used by corporate farms (Table 6). The presence of high transaction costs reduces the incentives for landowners to change the allocation of a plot, so a large share is still rented to the organisations that have taken over the former cooperatives and state farms.

The land reform process in the 1990s in Bulgaria and Romania (see Boxes 1 and 2) created a class of new (sometimes absentee) landowners, while the land is used by a mix of smaller individual farms and large-scale corporate farms. These corporate farms continue to use large portions of the land for a variety of reasons. A major underlying factor is that historically, the large-scale farms have been the primary users of the land. New landowners may face significant transaction costs if they want to withdraw their land from the farms and reallocate it.¹¹

¹⁰ Bulgaria, Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovakia and Slovenia.

¹¹ While the withdrawal procedure is usually stipulated by law, it is also determined by the willingness of the corporate farms to implement it (Mathijs & Swinnen, 1998). Interviews with country experts confirm that the difficulty of withdrawing land is highly dependent on the location of the plot. The withdrawal of a plot that is situated in a consolidated field makes the process more problematic and costly. The cooperative farm and the landowners have to agree on the physical demarcation of the plot. If the plot is located in the middle of a consolidated field, they will typically try to agree on a comparable parcel along the border of that field. In this context, it is important that the farm management is accommodating with respect to the withdrawal procedure. According to the legislation, corporate farms have no right to block such withdrawals. Yet in practice, they are not always so supportive. Although the difficulties between the withdrawal of physical land plots and land shares are not that

Table 6: Percentage of agricultural area used by ‘single holder’ (individual or family) farms

	2003	2005	2007
Ireland	100	100	100
Greece	100	100	100
Luxembourg	100	100	100
Denmark	97	98	95
Slovenia	94	95	95
Norway	96	95	94
Malta	92	93	93
Netherlands	92	92	93
Cyprus	93	93	92
Finland	93	92	91
Latvia	89	90	91
Belgium	92	92	90
Poland	88	90	90
United Kingdom	89	85	87
Italy	88	82	87
Lithuania	88	88	86
Sweden	81	82	81
Austria	83	83	81
Portugal	77	75	72
Germany	69	69	68
Spain	69	69	68
Romania	55	65	65
Estonia	59	56	52
Hungary	50	49	48
Bulgaria	42	47	47
France	54	50	46
Czech Republic	28	29	29
Slovakia	15	18	20

Source: Eurostat

Corporate farm managers typically had more information than landowners did about the economic situation of the farm and about regulations governing local land transactions.¹² This was especially true for landowners who had not been involved in agriculture or who were living outside the village where their land is located, or for pensioners.

Not surprisingly, the dominance of large corporate farms in the land market also leads to imperfect competition. Large farm corporations use their market power in local or regional land markets to influence land prices and rental contract conditions in their favour. In Bulgaria for example, among some villages almost the entire village is renting land to a single corporate farm.

dissimilar, there are indications that the withdrawal of land shares is even more challenging, especially for land owned by individuals who are not connected with the corporate farms (non-members/non-partners). In general, these problems increase the costs for the landowner, since s/he can be deterred from withdrawal by being offered a plot located far from his/her operation or a plot of lower soil quality.

¹² For example, Swain (1999) describes how pensioned members of cooperatives in Slovakia were ‘forced’ to rent the land to the cooperative under the threat of losing their pensions.

5.4 Property rights imperfections and transaction costs

Besides the restriction for foreigners to acquire agricultural real estate, there are other constraints that impede both land sales and rental transactions, and hence reduce the potential to transfer land from the least to the most productive users and prevent the efficient allocation of agricultural land.

It is well known that property rights imperfections as well as transaction costs related to the identification and delineation of land plots, the enforcement of land rights, etc., are significant constraints on the development of land markets. In fact, Bulgaria and Romania are well-known examples of how these factors affected land markets in the 1990s.

Property rights for most of the land in Bulgaria and Romania (see Boxes 1 and 2) were privatised in the 1990s. While these land reform processes have been finalised, this does not necessarily mean that all the issues concerning property rights have been resolved. Problems with property rights and transaction costs continue to influence land markets.

Several studies document that the land markets in Bulgaria and Romania were characterised by the existence of substantial transaction costs in rural land markets, hindering land exchanges in the years leading up to EU accession (Dale & Baldwin, 2000; Lerman et al., 2004). Transaction costs include those related to bargaining costs, the enforcement of withdrawal rights, asymmetric information, co-ownership and unknown owners, and unclear boundaries. Uncertainty and high costs in the identification of land property rights may lead to soaring transaction costs and constraints on land transactions in general.

In Bulgaria, renting mainly occurs on an annual basis. There are hardly any long-term rents, which creates uncertainty for the land user. Rents to private farmers appear to be fair and are working to suit the mutual interest of tenants and landlords. However, a great concern relates to the land which is rented in by cooperative farms. Swinnen et al. (2006) found that only a small share of the payments (33%) made by the cooperatives occur in cash. For the remaining transactions, rental payments occur in kind, or as a combination of an 'in kind' and 'cash' payment, or do not occur at all. In-kind payments used by corporate farms are less transparent. They often depend on yields, which are difficult to control by the landowners, and may result in lower effective rent payments which have a negative impact on the welfare of the land owners (Vranken et al., 2007). According to experts at the Ministry of Agriculture and Fisheries in Bulgaria, the problem is still omnipresent.

Other costs related to land transfers include notary fees, taxes and assorted administrative charges. For instance, the studies on Poland, Bulgaria, Lithuania and Romania estimate these costs at between 10% and 30% of the value of the land transaction (OECD, 2000; Prosterman & Rolfes, 2000; World Bank, 2001).

Property rights imperfections that follow from co-ownership of land and the difficulty of unknown owners affect the development of both land sales and land rental transactions. Under the communist era in Bulgaria and Romania, land ownership

registration was poorly maintained, if at all, and in many areas a process of land consolidation occurred, wiping out old boundaries and relocating natural identification points (such as old roads and small rivers). The loss of information on registration and boundaries resulted in a large number of unknown owners (Dale & Baldwin, 2000). In addition, unsettled land inheritance within families during the socialist regime gave rise to widespread fragmentation in land ownership and a high number of co-owners per plot of land.

In Bulgaria, around 50% of the plots were co-owned, often by several people - excluding husband and wife co-ownership (Figure 3). Some co-owners may be unknown, or may not be in the country, or may be scattered all over the country.

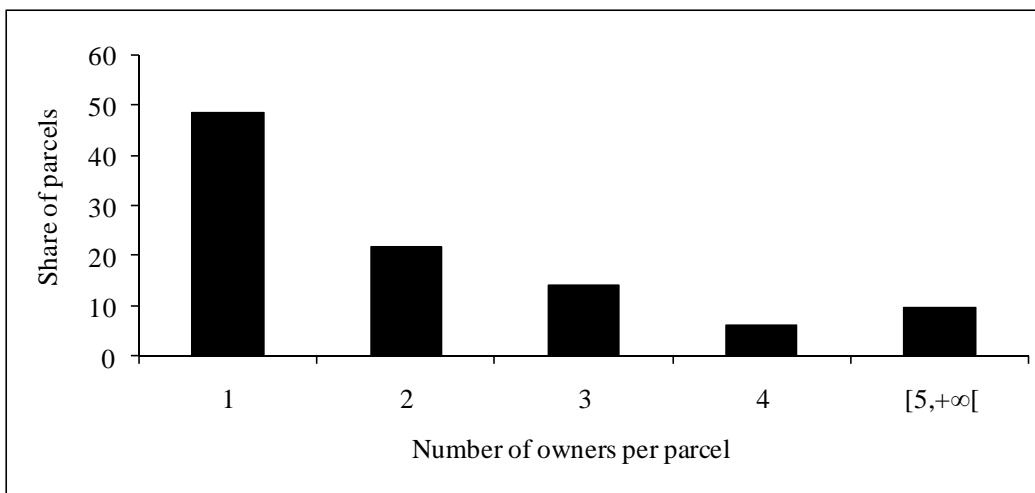
Not surprisingly, co-ownership raises the costs of land exchanges, for both sales and rentals, as land withdrawal from the corporate bodies normally requires agreement from the co-owners. In a detailed and survey-based assessment of co-ownership problems in Bulgaria, it was found that around 50% of the plots were co-owned, often by several people - excluding husband and wife co-ownership (Vranken et al., 2007). The study indicated that co-owned plots of land are more likely to be used by corporate farms and less likely to be used by or rented out to other farms (Figure 4). Furthermore, the probability of land being used by a cooperative or being abandoned increases with the number of owners, and the impact of co-ownership depends on whether the co-owners are living within or outside the village. Coordination problems worsen when co-owners are living farther away.

Another factor that affects the development of land markets in Bulgaria relates to the *fragmentation of land ownership* which refers to the fact that one land owner typically owns multiple non-contiguous land plots. The average size of an agricultural plot is 0.6 ha. The size of the plots varies by region, depending on the natural conditions and the crop structure - from 0.3 ha in Smolyan region to 3.0 ha in Dobrich region¹³. Since farmers prefer to cultivate large consolidated plots, they assemble the land they operate from a number of owners. Many land plots were restituted to *absentee* land owners who have hardly any connection with farming and the rural economy. Settling land rental arrangements with these owners involves significant search costs to find and negotiate with all owners. Moreover, land fragmentation also affects the land sales markets as buyers are more reluctant to buy dispersed parcels of land (Kopeva, 2003).

While there are no recent formal statistics on the importance of co-ownership and land fragmentation, local experts confirm that problems related to these issues are still importantly affecting the development of the land market.

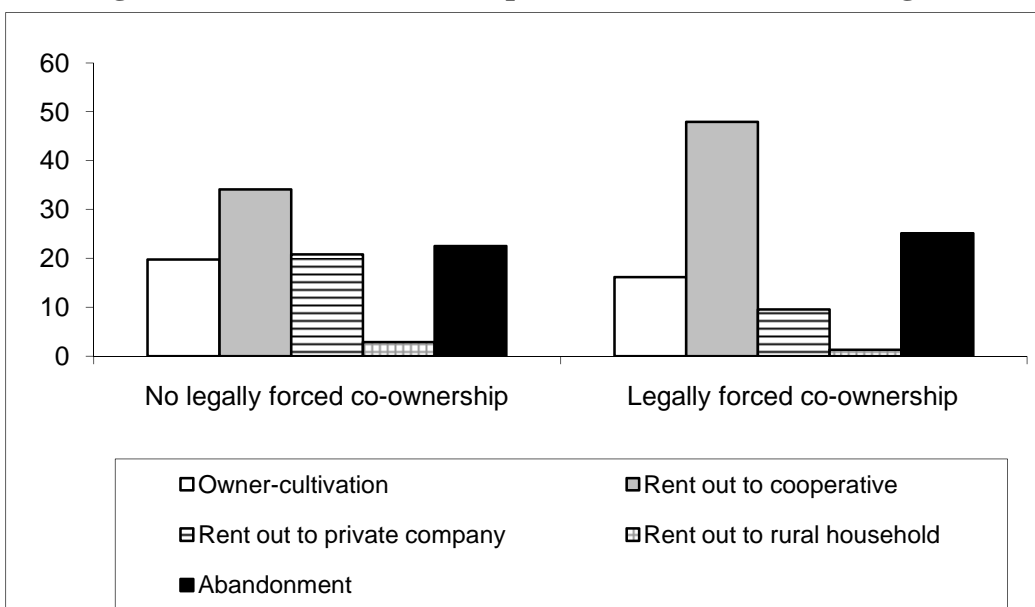
¹³ Source: MAF, Land Ownership Directorate.

Figure 3. Number of owners per plot in Bulgaria



Source: Vranken et al, 2007

Figure 4. Effect of co-ownership on allocation of land in Bulgaria



Source: Vranken et al., 2007

6. FOREIGN DIRECT INVESTMENT

Foreign direct investment (FDI)¹⁴ in agriculture could have a major impact on the agricultural sector and the functioning of land markets in Bulgaria and Romania. Foreigners interested in investing in agriculture in these countries are most likely less credit-constrained and probably have better access to general market information and technology than do some of the local farms from which they would take over the land. The direct effects of foreign investment would be the enhancement of average agricultural productivity.

Indirectly, investments in agriculture through land purchases by investors who are less capital-constrained than existing farmers may improve agricultural productivity by increasing land value, thus reducing capital constraints for all farms (as higher land values would increase farm valuations and collateralisation options) and by horizontal spillovers (e.g. of technology and information) for the sector as a whole.

To assess foreign direct investment in this context, it is crucial to understand a) the current importance of FDI in farming (directly) and its potential and b) the influence of FDI on Bulgarian and Romanian agriculture and its performance. We also consider the significance of other forms of FDI (which affect Bulgarian and Romanian agriculture directly or indirectly through spillover effects) in comparison with FDI in farming (directly) and its performance.

FDI inflows have been extensive in Bulgaria and Romania over the past 15 years, but not in all sectors. Table 7 and 8 show the proportions of FDI. One has to be careful in drawing conclusions from these data since the restrictions on foreign ownership of land are likely to have affected these numbers. Still, there are some interesting observations that are relevant for our study.

First, the inflow of FDI in Bulgaria and Romania over the past years has been large.

In Bulgaria, the stock of overall FDI has also grown from € 2 billion in 1999 to €32 billion in 2008. The stock of FDI that has gone into agriculture, hunting and forestry is much lower. By 2008, FDI in agriculture, hunting and fishery was €166 million, but nevertheless a substantial amount given the restriction.

Table 7: FDI stock in Bulgaria between 1999 and 2008 (€ million)

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<i>TOTAL</i>	2.174	2.906	3.342	3.927	5.045	7.421	11.756	17.704	26.874	32.636
<i>Agriculture, hunting and forestry</i>	5	17	17	17	41	47	54	77	126	166
<i>Food industry</i>	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

Source: WIIW (The Vienna Institute for International Economic Studies) Database on FDI in Central, East and Southeast Europe (May 2010).

¹⁴ Following the IMF Balance of Payments Manual, Revision 5, capital investment abroad is regarded as foreign direct investment if the share of a foreign investor makes up at least 10 per cent of the target firm's equity capital; that share can be as much as 100 per cent.

In Romania, the stock of overall FDI has grown to around €43 billion by 2007 (Table 8). By 2007, around €280 million has gone into agriculture and forestry. While this figure is almost ten times smaller than the amount of FDI that has gone into the food industry – which is consistent with observations in EU-7 countries¹⁵ –, FDI in agriculture has been substantial, and much more than one would expect given the restrictions on land ownership that have been imposed.

Table 8: FDI stock in Romania between 2003 and 2007 (€ million)

	2003	2004	2005	2006	2007
<i>TOTAL</i>	9.662	15.040	21.885	34.12	42.770
<i>Agriculture, hunting and forestry</i>	86	100	106	163	281
<i>Food industry*</i>	935	1.109	1.427	1.908	2.207

* Food products, beverages and tobacco

Source: WIIW (The Vienna Institute for International Economic Studies) Database on FDI in Central, East and Southeast Europe (May 2010)

Another important aspect of FDI is the role of FDI in the food industry and agribusiness. As in other EU-7, a far larger amount has been invested in the food industry and agribusiness. In Romania, the amount invested in the food industry and agribusiness amounts to more than €2 billion. While there are no data available on FDI in the food industry and agribusiness for Bulgaria, based on our studies of specific sectors (e.g. Noev et al., 2009), we think it is safe to assume that the relative importance would be of the same orders of magnitude.

It is well known by now that FDI in the food industry and agribusiness in Bulgaria and Romania has had major, positive vertical spillovers on the farms. Vertical spillovers have come through improvements in access to inputs, technology, credit and output markets as a result of FDI and the restructuring of the Bulgarian and Romanian food sector. All this has resulted in higher investment, productivity growth and enhanced competitiveness of the food chain as a whole, including the farm sector.¹⁶

In summary, given the likelihood that the observed FDI flows have themselves been affected by the ownership restrictions, one should be careful in drawing conclusions from these data. Nevertheless, the data suggest that there has been a substantial inflow of FDI in agriculture despite the restrictions on land ownership. In addition, while some of the positive FDI effects (direct and indirect through horizontal spillovers) in the Bulgarian and Romanian agricultural sector may have been limited by the land ownership restrictions, there have been widespread vertical spillovers from FDI in the food industry and agribusiness. Together these spillovers have culminated in increased investment, productivity and competitiveness of the overall Bulgarian and Romanian food chain, including farms (Dries et al., 2009; Van Berkum, 2007; Noev et al., 2009; Ciaian and Swinnen, 2009).

¹⁵ See Swinnen and Vranken (2009) for more information.

¹⁶ See e.g. Gow & Swinnen (1998), Dries & Swinnen (2004), World Bank (2006) and Swinnen (2006) for evidence.

7. IMPACT OF EU ACCESSION

EU accession was to affect land markets directly by freeing them and integrating them into the single EU market. While this process has been held back by the ownership restrictions, EU accession has had several other effects on the Bulgarian and Romanian land markets.

EU accession has influenced the Bulgarian and Romanian rural land markets indirectly through various interactions. Chiefly, EU accession has affected the Bulgarian and Romanian land markets through the following channels:

- It has improved the functioning of other factor markets (including credit and technology) and output markets. These other market imperfections were major limitations on the functioning of land markets in Bulgaria and Romania. With improvements in these other markets, farm productivity, investment and profits have grown, leading to a rise in the demand for land and in land values in Romania and Bulgaria.
- It has stimulated foreign and domestic investment in the food industry and agribusiness, with sizeable spillovers on farming and land (see previous chapter; Swinnen, 2006; Noev et al., 2009; World Bank, 2006). These spillover effects have implied substantial positive impacts on productivity, investments and the competitiveness of the whole agrifood chain, including agriculture.
- It has led to a large increase in subsidies for Bulgarian and Romanian farmers through the CAP. Although for a transition period the Bulgarian and Romanian farms only receive a proportion of the subsidies given to EU-15 farms, the subsidies represent an appreciable share of their farm incomes.

Moreover, since most of the subsidies are linked to either output or land, they tend to stimulate a rise in land prices.¹⁷ Theoretical analyses show that, even in the presence of land market transactions and imperfect competition, most of the subsidies that are linked to land would ultimately go to landowners through increased land prices (Ciaian & Swinnen, 2006). Furthermore, if credit market imperfections feature prominently, the increase in land prices may even be larger than the increase in land subsidies.¹⁸

The impact of the CAP subsidy system on the incentives for local farmers and foreigners to purchase agricultural land in Bulgaria and Romania is mixed. The CAP subsidies received by Bulgarian and Romanian farmers are only a fraction of the payments received by the EU-15 farmers (Table 9). If Bulgarian and Romanian farms have credit constraints, this difference in subsidies affects their competitiveness in the land market.

¹⁷ Price support is linked to output and drives up the demand for land indirectly, as land is an input in farm production. Direct payments are linked to land use in Bulgaria and Romania and thereby directly increases the demand for land.

¹⁸ In the presence of credit constraints, land subsidies will not only drive up demand directly (by subsidising land use) but also indirectly (by increasing productivity). In combination, these factors lead to an even greater rise in land prices (Ciaian & Swinnen, 2009).

Yet as noted above, a substantial portion of these subsidies ultimately go to the landowners, by stimulating the demand for land and thus increasing land values. This situation may provide an additional incentive for investors to purchase agricultural land. In the short run, since the subsidies are lower in Bulgaria and Romania, for a given price differential between the EU-15 and Bulgarian and Romanian land prices, the incentive for EU-15 farmers to buy agricultural land in Bulgaria and Romania is less than if the amount of the subsidies were equal. Nonetheless, potential EU-15 investors are generally less credit-constrained than are the Bulgarian and Romanian farms and investors, and they know that the magnitude of the direct payments will continue to increase in Bulgaria and Romania. Together, these aspects may make buying agricultural land in Bulgaria and Romania an attractive investment in the longer term.

The combination of these factors has led to strong growth in farm incomes, land transactions and land prices with EU accession. These evolutions are documented in the next chapters with data.

Table 9: Direct Payments per hectare in 2008 (euro/ha)

	Direct Payments (million euro)	UAA* (hectares)	Direct Payments per ha (euro/ha)
Belgium	560	1.374.430	407
Denmark	970	2.662.590	364
Germany	5.491	16.931.900	324
Ireland	1.271	4.139.240	307
Greece	2.390	4.076.230	586
Spain	4.817	24.892.520	194
France	8.072	27.476.930	294
Italy	3.493	12.744.200	274
Luxembourg	34	130.880	263
Netherlands	768	1.914.330	401
Austria	709	3.189.110	222
Portugal	539	3.472.940	155
Finland	543	2.292.290	237
Sweden	717	3.118.000	230
United Kingdom	3.161	16.130.490	196
Czech Republic	380	3.518.070	108
Estonia	41	906.830	45
Cyprus	19	146.000	133
Latvia	62	1.773.840	35
Lithuania	158	2.648.950	60
Hungary	543	4.228.580	128
Malta	0,03	10.330	3
Poland	1.248	15.477.190	81
Slovenia	41	488.770	84
Slovakia	156	1.936.620	81
Bulgaria	166	3.050.740	55
Romania	422	13.753.050	31

* UAA: Utilised agricultural area

Direct payments per hectare are calculated as total direct payments by country divided by the total UAA by country.

Note: The calculated values may be lower than the actual payments per hectare because, first, the calculated direct payments per hectare do not include top-ups (for the EU-12), and second, not all land qualifies for area payments.

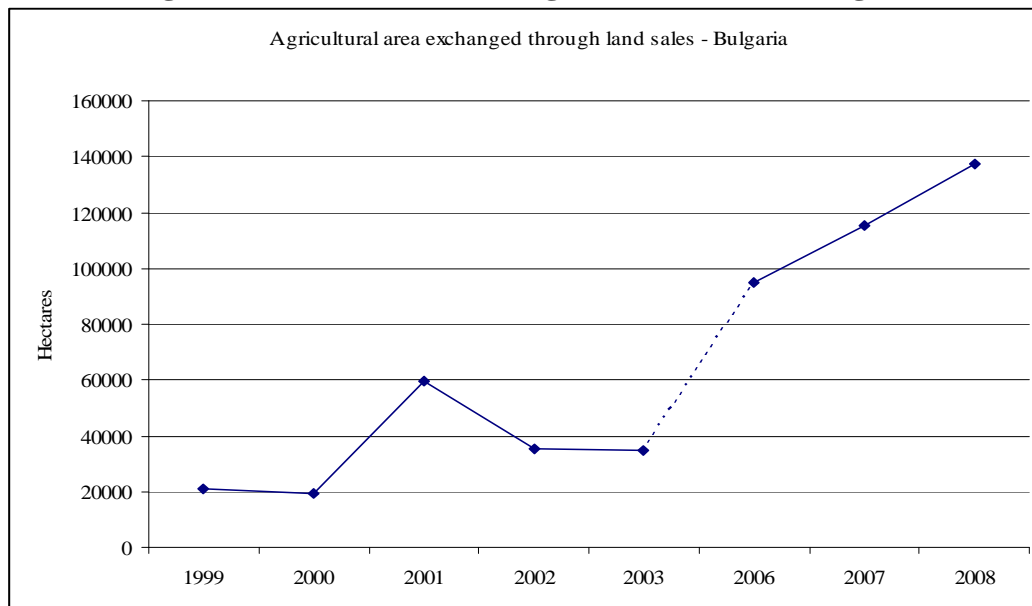
Source: European Commission, DG Budget, 2008 Financial Report and Eurostat.

8. DEVELOPMENT OF LAND MARKETS

8.1 Development of land transactions

In Bulgaria, the overall size of the land sales market remains small. Land sales as a share of total agricultural land was less than 2.5% around the accession period, but the transacted area grew by 45% between 2006 and 2008 (Table 10). Over the past decade the increase in transacted area is even more spectacular. Between 1999 and 2008, the area transacted through sales increased by sixfold (Figure 5).

Figure 5: Amount of sales of agricultural land in Bulgaria



Source: SAPI (Status and tendencies in development of land market in Bulgaria), various years between 1999-2008.

As we explained earlier, the vast share of land in Bulgaria (in contrast to Romania) is transacted through renting (see table 4). Therefore it is important also to look at the changes in rental market transactions in Bulgaria.

Two types of officially accepted rental contracts exist in Bulgaria. The first one is the so-called "*Arenda*" contract, which has a minimum length of 4 years and the rental term can be extended up to 50 years. *Arenda* contracts need to be certified by a notary and registered at the Land Commission according to the *Land Lease Law*¹⁹ (LLL). This results in higher tenure security for both the tenant and the land owner. Furthermore, if a land owner is selling a plot of land which he is renting out with an *Arenda* contract, the tenant has a pre-emptive right to purchase the land he is renting. At the same time, the obligatory notarization and registration increases the transaction costs. It is often argued that *Arenda* contracts under the LLL are too expensive and therefore tenants are less keen to use them. However, foreigners who participate in the land rental market typically rely on *Arenda* contracts.

The second type of rental agreement is the "*Naem*" contract, which is mostly used for a short-term renting (typically one crop year), and notary certification and registration

¹⁹ *Land Lease Law*, State Gazette 82, 27 September 1996; amended SG No35/1999.

is not required. *Naem* contracts are regulated by the *Law for Obligations and Contracts* (LOC)²⁰ - which provides a more general framework - and this type of rental agreements do not establish any real rights so that it impossible to use the rented land as collateral. *Naem* contracts are written and re-signed every year and are not notarized or registered (as this is costly and not required). Land plots owned by the authorities and included in the State Land Fund are typically rented out under *Naem* contracts.

Table 11 lists land transactions per region and the data show that rental transactions have increased substantially over the past decade. There has been a considerable increase in rental contracts between 2002 and 2003, which is related with the requirements of the European Union that countries joining the EU should put in place tools to collect data about land tenure (FAO, 2006).

Table 10: Amount of sales of agricultural land in Bulgaria by region

	1999	2000	2001	2002	2003	2006	2007	2008
North West Planning Region	4063,7	1602,4	1875	3076,6	2117,3	16941,5	22609,8	16432.1
North Central Planning Region	4105,6	2541,2	6669,5	7327,7	8510	21436,2	31719,2	36090.3
North East Planning Region	9277,2	1135,38	4079,32	1731,89	1670,91	27994	25237,2	35555.8
South East Planning Region	1442,3	1442,3	4293,5	3350,9	4016	15522,3	15725,4	16200.4
South Central Planning Region	1775,4	1816,9	4939	3279,6	2714,1	11030	15590,5	25599.9
South West Planning Region	352,1	352,1	735,5	919,4	303,7	1986,5	4411,6	7523.2
Country aggregate	21016,3	19308,5	59496,7	35458,1	34572,2	94910,5	1152937	137401.7

Source: SAPI (Status and tendencies in development of land market in Bulgaria), various years between 1999 and 2008.

Table 11. Land rental transactions in Bulgaria

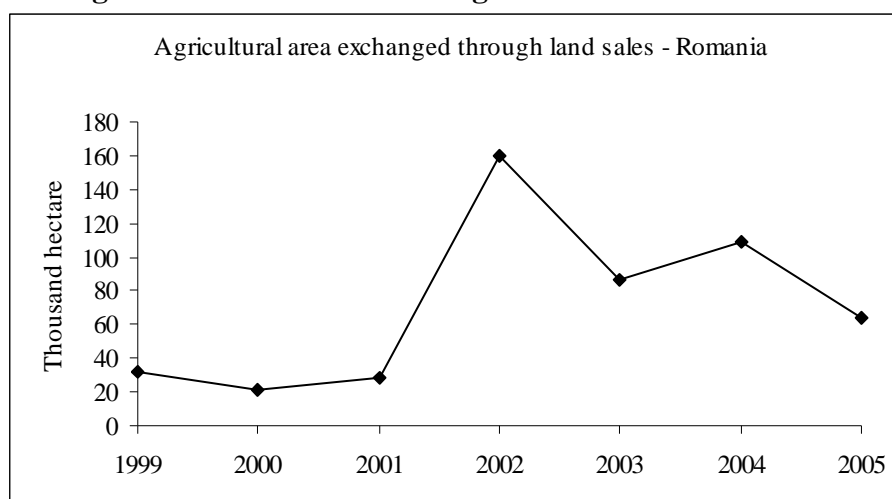
	Rented Area –Ha					
	2001	2002	2003	2006	2007	2008
North West Planning Region	28757,4	44831	40130,1	56044,6	40434,8	40709,2
North Central Planning Region	44154,8	52668,8	76939,7	108143,9	132190,8	139221,6
North East Planning Region	139599,5	74524,8	127831,1	135722,4	115005,8	95931,3
South East Planning Region	21685,7	32077,5	32661,1	38948,7	30401,9	24701,2
South Central Planning Region	43099,8	29226,9	47275,5	29143,2	47484,8	18064,4
South West Planning Region	3585,9	9827,1	9047,2	7112,2	8578,9	9326,8
Country - average	280883,1	243156,1	332884,7	375115	374097	327954,5
	Number of rental contracts					
	2001	2002	2003	2006	2007	2008
North West Planning Region	12127	31605	16335	19233	12053	19484
North Central Planning Region	21319	21729	37275	50492	75081	65685
North East Planning Region	57194	32970	47946	50954	51563	50492
South East Planning Region	7898	7923	7186	9130	8949	5839
South Central Planning Region	19291	10106	31856	13259	28201	8760
South West Planning Region	2385	2503	4737	3284	4007	4250
Country - average	120214	106836	145335	146352	179854	154510

Source: SAPI (Status and tendencies in development of land market in Bulgaria), various years between 2001 and 2008.

²⁰ *Law on Obligations and Contracts*, State Gazette No 275, 22 November 1950, rectified SG No.2/1950; amended SG No. 69/1951; 92/1952; 85/1963; 27/1973; 16/1977; 28/1982; 30/1990; 12 & 56/1993; 83/1996.

In Romania, the share of land sales as a percentage of total agricultural area was even smaller than in Bulgaria. Prior to accession, i.e. between 1999 and 2005, less than 1.5% of UAA was sold on average per year. Hence, over the entire period around 3.5% of total utilised agricultural area has been exchanged through sale. The share of land sales as a percentage of total agricultural area seems to grow over time albeit with some variations. In 2002, a peak in traded area could be observed. After 2002, the amount of land exchanged through land sales decreased but remained considerably above the 2001 level (Figure 6).

Figure 6. Amount of sales of agricultural land in Romania



Source: NACLRL - Romanian National Agency for Cadastre and Land Registration, 1999-2005

As of 2006, information about land transactions are gathered through the use of a computer-assisted information system which was initially set into operation in only three counties, being Buzau, Constanta and Prahova. The information system in these counties registered for the 2006-2010 period land sale-purchase transactions as well as transfers related to succession. Table 12 illustrates a very strong increase in the amount of land that has been transacted between 2006 and 2010. The transacted area doubled in Buzau, while it almost increased tenfold in Prahova.

Table 12: Area of agricultural land transacted in Romania between 2006-2010

County	2006*	2007	2008	2009	2010*
<i>Buzau</i>	7.017	15.253	15.995	13.860	16.677
<i>Constanta</i>	12.093	47.863	62.142	65.871	55.908
<i>Prahova</i>	2.234	15.074	20.656	14.426	21.021

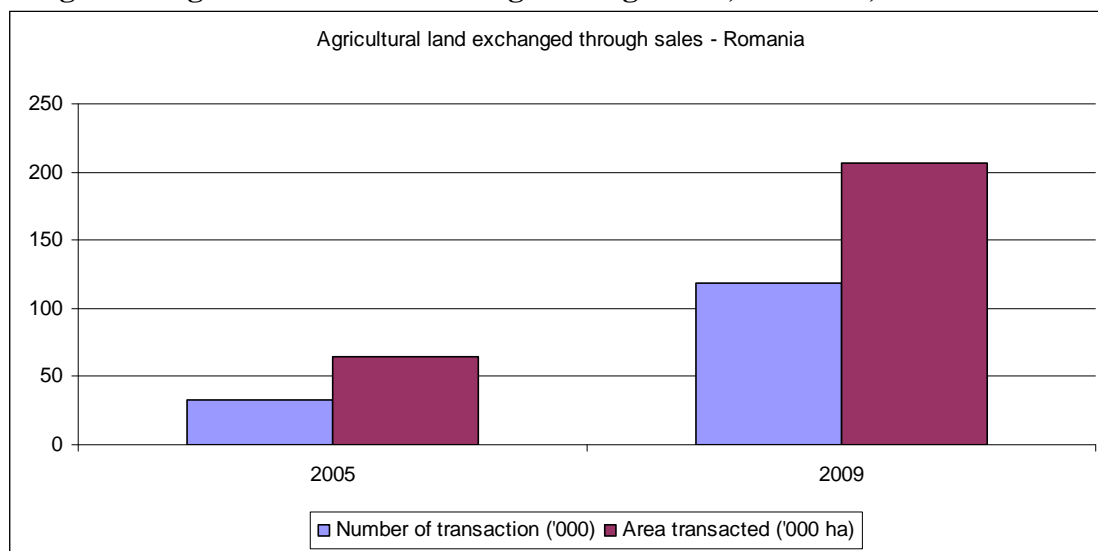
Evolution of transacted area (2006=100)					
County	2006	2007	2008	2009	2010
<i>Buzau</i>	100	217	228	198	238
<i>Constanta</i>	100	396	514	545	462
<i>Prahova</i>	100	675	924	646	941

*Data for 2006 and 2010 are an extrapolation based on the registrations in respectively the last and first months of the year.

Source: NACLRL - Romanian National Agency for Cadastre and Land Registration, 2006-2010

By 2010, the county components of a computer-assisted information system were set into operation in the entire country. According to these recent data, the number of land sales transactions as well as the area sold more than tripled between 2005 and 2009 (see Figure 7). According to this registration system, on average 1,35 ha of agricultural area were transferred per transaction and the number of transactions is 10 times higher in counties with high quality land (Timis, Vaslui, Braila) compared to counties with mainly mountainous agricultural land (Maramures, Bistrita-Nasaud).

Figure 7: Agricultural land exchange through sales, Romania, 2005 and 2009



Source: NACLIR - Romanian National Agency for Cadastre and Land Registration, 2005 and 2009

8.2 Evolution of land prices

In both countries, we observe a substantial increase in agricultural land prices over the last decade, which strengthened around the time of enlargement.

The developments in the Bulgarian agricultural land market over the past decade can be divided into three periods (see Table 13):

- From 1998 to 2003, the land market was not well developed. Only very few transactions were recorded and land sales prices were very low. The average price of a hectare of agricultural land equals 721 euro during the 1998-2003 period.
- During the pre-accession period, from 2004 to 2006, the land market grew probably due to the foresight of EU accession and the introduction of agricultural support measures under the CAP. The average price for a plot of land increased to 895 euro per ha.
- After accession, a large number of transactions was concluded and prices increased by 34% compared to the pre-accession period, from 895 euro to 1202 euro per hectare.

Table 13: Evolution of agricultural land sales prices* in Bulgaria

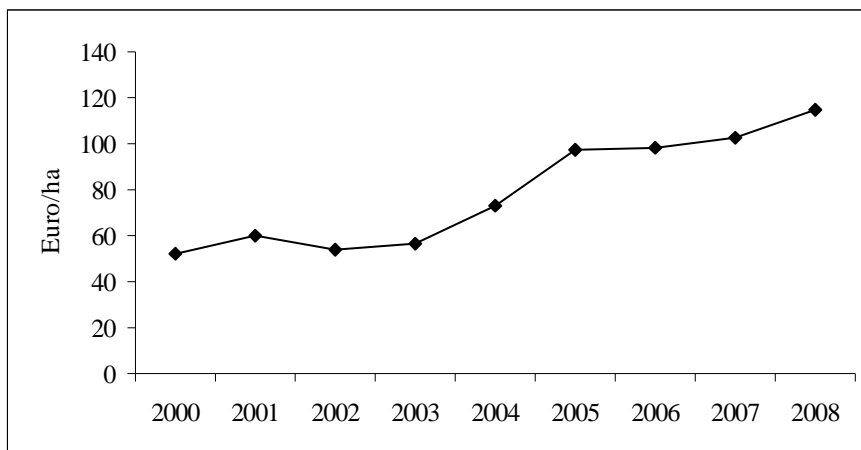
	EURO/ha	BGN/ha	% increase compared to 1998-2003
1998-2003	721	1.410	-
2004-2006	895	1.750	24%
2007-2008	1.202	2.350	67%

*Prices represent simple averages over the years.

Source: Kopeva et al. (2010)

Because of the importance of land renting in Bulgaria it is also important to look at rental prices in this country. As figure 8 illustrates, there is a strong increase in rental prices over the past decade. In particular, land rental prices increased by 121% between 2000 and 2008 (from 52 euro to 115 euro per hectare on average). According to these data the impact of accession was positive but moderate, as the pre-accession land price in 2006 was 17% lower than the post-accession land price in 2008. One possible explanation of why prices did not increase more is that they may be more rigid in responding as they are part of multi-annual contracts, and, if so, one should expect further price increases after 2008.

Figure 8: Changes in land rental prices in Bulgaria between 2000 and 2008*



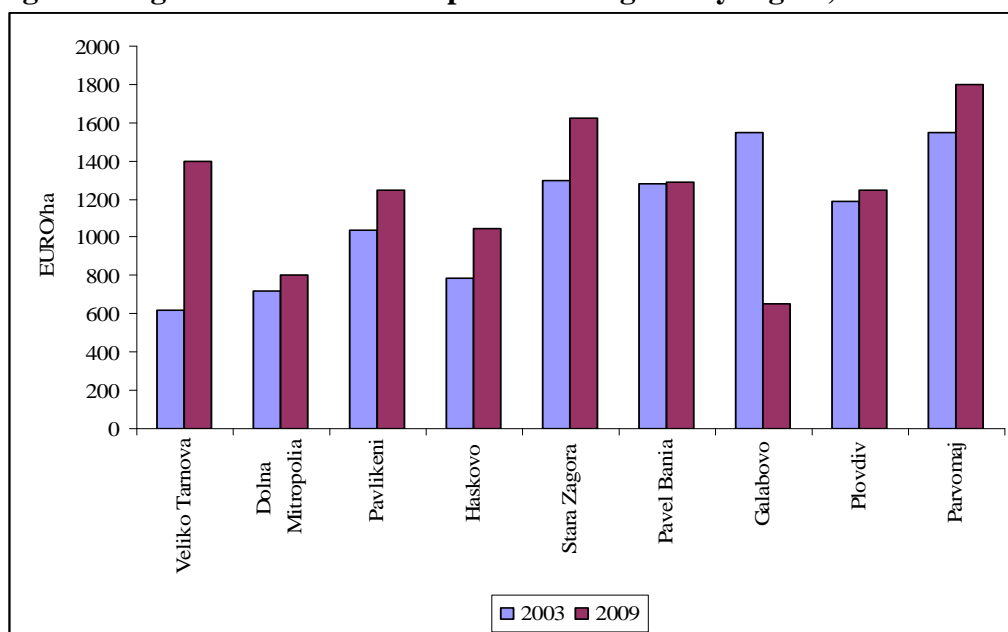
*Agricultural land rental prices for the 2000-2003 period and arable land rental prices for the 2004-2008 period. For the years 2004 to 2006, agricultural as well as arable rental prices were available and these prices differed by less than 20 eurocents.

Source: Eurostat.

The increase in land prices in Bulgaria is also confirmed by a survey conducted in the North and Central planning regions²¹. Land sales price data were collected for 2003 and 2009 for nine Bulgarian counties. In all counties, except for one (Galabovo), we observe an increase in agricultural sales price. While the increase is modest in some counties like Dolna Mitropolia, the price more than doubled in Veeliko Tarnova (Figure 9).

²¹ Kopeva, D., Madjarova, Sv., Ivanova, N. (2008 and 2009). Efficiency and competitiveness of production structures in agriculture. UNWE - SRF 21.03-3/2006

Figure 9: Agricultural land sales prices in Bulgaria by region, 2003 and 2009



Source: Survey conducted in 2003 and 2009 in North Central and South Central Planning Regions – University of National and World Economy (UNWE) Data base

Box 5: Bulgarian Rental prices for land owned by the State or Municipality

The ordinance “*Rules for setting the price of agricultural land*” was accepted in 1998 by the Council of Ministers, and amended for the last time in May 2008. The main objective of this ordinance is to determine agricultural land prices

- for compensation of expropriated agricultural land in cash;
- for determination the land price for ‘marginal lands’;²²
- for determination of the land price in case of sales, exchange and other deals between the state and physical and juridical persons (entities);
- for determination of rental prices of land under the authority of the State or Municipalities.

Current market prices are calculated on the basis of starting (basic) prices, are expressed as the capitalized rent value and vary with the category of agricultural land (table B5.1). Rent values are differentiated by coefficients for land size, available irrigation equipment, allocation (North or South Bulgaria), distance from main markets, distance from big cities, etc.

²² Marginal Lands are those allocated along the ‘border’ between agricultural land and urban land around big cities. Before 1989, this land was used for the construction of villas and it is now often claimed for restitution.

Table B5.1. Bulgarian Land Market Prices

Land Quality Category	Basic Prices (BGN/dca)	Rent value (BGN/dca)
First	630	25.2
Second	580	23.2
Third	500	20
Fourth	430	17.2
Fifth	310	12.4
Sixth	200	8.0
Seventh	130	5.2
Eighth	110	4.4
Ninth	80	3.2
Tenth	60	2.4
Not categorized	40	1.6

Source: Kopeva et al., 2010

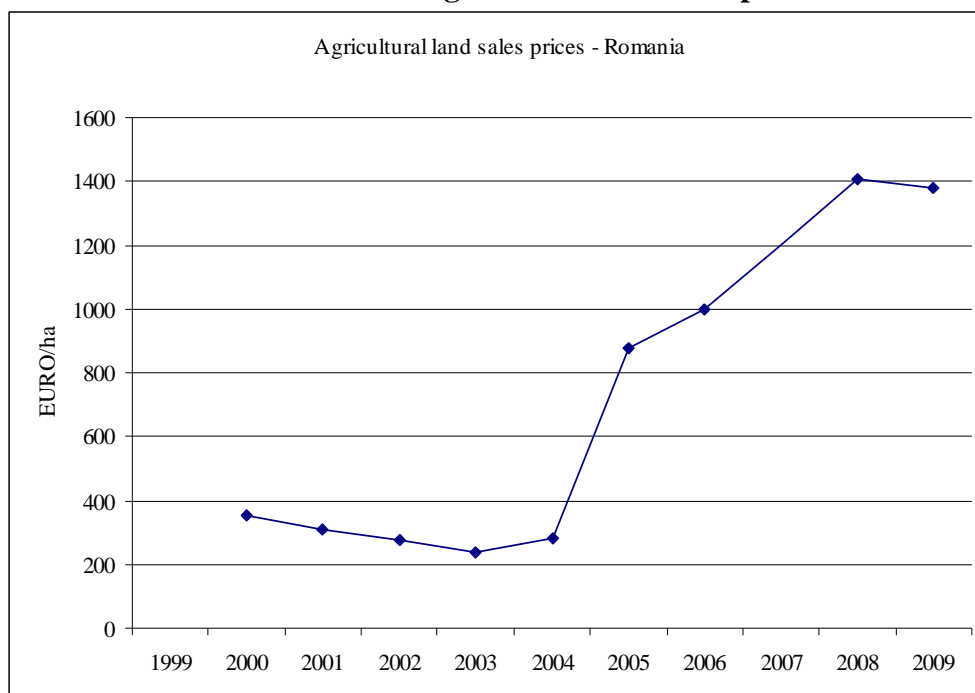
In Romania, land sales prices more than tripled over the past decade. A sharp increase in land sales price can be observed in 2005, the year that the Act of Accession was signed (Figure 10). Between 2004 and 2005, agricultural land sales prices increased by more than 200%. Also with the actual accession to the EU, agricultural prices raised considerably: from around 900 euro per hectare in 2005 to 1400 euro per hectare in 2008, which corresponds to an increase of more than 50%. This upward trend can be observed based on the data provided by Eurostat, land sales price estimates of the National Union of Public Notaries and the small expert survey that was conducted in Romania in 2009 for the purpose of this study (see Appendix 2).

In addition, anecdotal evidence confirms this trend. First, according to Globalcom, a consultancy firm offering services to those wanting to settle in Romania, the price of agricultural land has increased at an average rate of 60€ /ha per month between January 2007 and May 2008. That is an added value of 720€ per hectare per year. Second, private data by a French expert, who settled in Romania in 1994 and has bought considerable amounts of land in the past years, also confirm this trend of increasing agricultural land prices. In 2004, he bought land in his region at an average price of 200 euro/ha (excluding transaction costs related to registration, notary fees, etc.). The agricultural land sales price increased to 275 euro/ha in 2005, 370 euro/ha in 2006, 540 euro/ha in 2007, 680 euro/ha in the first half of 2008, 1200 euro/ha in the second half of 2008 and 1000 euro/ha in 2009.

In both countries, there are large differences in agricultural land sales prices by region and by plot size, which is highly related to increased demand for land in peri-urban and tourist areas.

There are large differences in agricultural land prices by regions and by plot size. In Bulgaria, small plots located near the capital, near mountainous areas (ski resorts) and the Black Sea are considerably more expensive than plots located in other areas. In 2008, the price for agricultural land in the South West Planning Region, the region in which Sofia is located, was more than 35 times higher than in the North West Planning Region, which is the region with the lowest average prices, and ten times higher than the average country-level land price (Table 14). The price for agricultural land in the South East Planning Region, which holds a district bordering the Black Sea, is 20 times higher than the price in the North West Planning region and five times higher than the average land price at county level.

Figure 10. Evolution of Romanian agricultural land sales prices from 2000-2009



Source: Eurostat for 2000-2005, expert survey for 2006, 2008 and 2009 – see Appendix 2 for details.

In Romania, prices differ strongly between regions as well. According to the Ministry of Agricultural and Rural Development, in some regions, agricultural land sales prices in 2005 are less than a quarter than the country-level average, while in other counties, such as Ilfov and Prahova which are located near Bucharest, average land prices are eight times higher than the country average.

These huge differences in agricultural land prices are still present in 2009 (see Tables 15 and 16). One would expect price difference based on quality differences. However, the price differentials are often more driven by the location of the land than by its agricultural quality. Land parcels in the proximity of large city, national roads, touristic areas are much more expensive *ceteris paribus*.

There are considerable land sales price differentials between Romania and Bulgaria and the EU-25 countries, but the gap is decreasing over time.

Figure 11 and Table 17 illustrate that there is an important difference between agricultural land sales price in Bulgaria and Romania and the EU-15, but that land prices in Bulgaria and Romania are comparable with the prices observed in the EU-7. The price differentials between Bulgaria and Romania and the EU-15 are diminishing over time but at a very slow rate. In the recent years, land sales prices in the Netherlands and Belgium were typically around 30 times higher than in Bulgaria and Romania, while prices in Sweden and Finland were 3 to 6 times higher and these in Germany and Spain were around 10 times as high.

Table 14: Average agricultural land sales prices by Bulgarian planning regions

		1999	2000	2001	2002	2003	2006	2007	2008
<i>North West Planning Region</i>	BGN/ha	1472	1280	920	1150	920	1700	2040	2660
	EURO/ha	752,622	654,454	470,389	587,986	470,3885	869,1962	1043,035	1360,036
<i>North Central Planning Region</i>	BGN/ha	1284	1050	970	1200	1040	3460	2080	2710
	EURO/ha	656,499	536,856	495,953	613,55	531,7436	1769,07	1063,487	1385,601
<i>North East Planning Region</i>	BGN/ha	1248	1230	1290	1070	1170	2367	2710	3920
	EURO/ha	638,092	628,889	659,567	547,082	598,2115	1210,228	1385,601	2004,264
<i>South East Planning Region</i>	BGN/ha	1307	1120	1260	1640	1570	2050	2070	2570
	EURO/ha	668,258	572,647	644,228	838,519	802,7283	1048,148	1058,374	1314,02
<i>South Central Planning Region</i>	BGN/ha	2765	2150	3080	2810	2970	2670	2790	3190
	EURO/ha	1413,72	1099,28	1574,78	1436,73	1518,537	1365,149	1426,504	1631,021
<i>South West Planning Region</i>	BGN/ha	2588	2590	3120	4380	3330	3870	4070	3120
	EURO/ha	1323,22	1324,25	1595,23	2239,46	1702,602	1978,7	2080,958	1595,231
<i>Country – average</i>	BGN/ha	1777,33	1370	1410	1410	1430	2250	2350	3120
	EURO/ha	908,736	700,47	720,922	720,922	731,1474	1150,407	1201,536	1595,231

Source: SAPI (Status and tendencies in development of land market in Bulgaria), various years between 1999-2008

Table 15: Land sales prices in 7 Romanian counties in 2005 and 2008

County	Development region	Average arable land price in 2008*	Maximum agricultural land price in 2008*	Minimum agricultural land price in 2008*	Effective average agricultural price in 2005
<i>Bihor</i>	NW	450	2.800	375	226
<i>Timiș</i>	W	1.750	40.000	1.200	1.054
<i>Ialomita</i>	S	825	26.000	300	327
<i>Olt</i>	SW	475	2.400	375	207
<i>Constanta</i>	SE	1.500	25.000	900	298
<i>Botosani</i>	NE	120	800	120	232
<i>Brasov</i>	Center	1.500	4.500	650	2.387

*estimates of the National Union of Public Notaries (UNNPR).

Source: Evaluation studies on the real estate circulation value, UNNPR, for 2008 and 2009 prices and MARD for 2005 prices

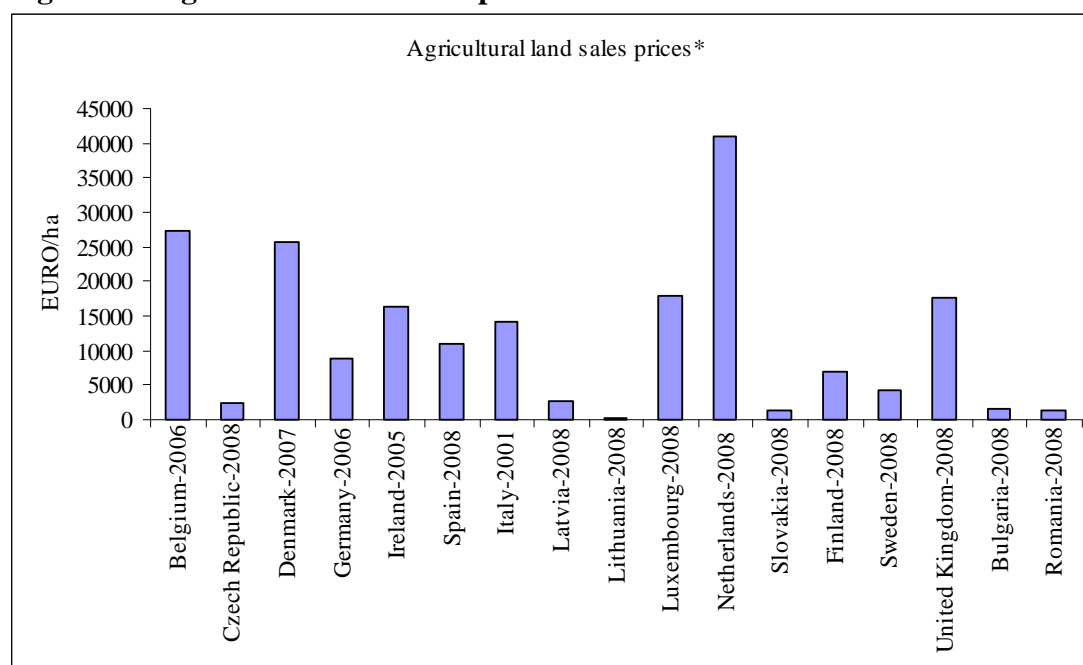
Table 16: Evolution of land sales prices in 7 Romanian counties between 2005 and 2009

County	Development region	Average arable land price*			
		Effective agricultural average price 2005	2007	2008	2009
<i>Bihor</i>	NW	226	794	450	448
<i>Timiș</i>	W	1.054	1.400	1.750	1.400
<i>Ialomita</i>	S	327	950	825	1.100
<i>Olt</i>	SW	207	599	475	378
<i>Constanta</i>	SE	298	900	1.500	800
<i>Botosani</i>	NE	232	160	120	125
<i>Brasov</i>	Center	2.387	2.000	1.500	1.100

*estimates of the National Union of Public Notaries (UNNPR)

Source: Evaluation studies on the real estate circulation value, UNNPR for 2007, 2008 and 2009 prices and MARD for 2005 prices

Figure 11: Agricultural land sales prices in selected Member States of the EU-27



*Eurostat available information on agricultural land sales prices for the most recent year.

Note: For Austria, Estonia, France, Greece, Hungary, Poland and Portugal, there are no agricultural land sales prices available in Eurostat. The existing information from Eurostat database on land prices and rents is currently not harmonised. Data are collected and aggregated based on each Member State practice and method.

Source: Country reports prepared for this study for Romania and Bulgaria, Eurostat for the EU-15 and the EU-7.

Table 17: Evolution of agricultural land sales prices in selected Member States of the EU-27

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
EU-15										
Austria	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Belgium	18391	21069	20372	16795	20273	23155	22053	27190	n.a.	n.a.
Denmark	10490	10330	12211	12920	14669	15995	18787	22791	25745	n.a.
Finland	3426	3933	4039	4246	4700	5197	5377	5979	6250	7000
France	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Germany	8939	9081	9427	9465	9184	9233	8692	8909	n.a.	n.a.
Greece	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Ireland	11175	12816	13897	13574	14397	16258	16230	n.a.	n.a.	n.a.
Italy	13177	13654	14266	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Luxembourg	n.a.	n.a.	n.a.	n.a.	15195	15837	14874	17047	16920	18046
Netherlands	29904	35713	37150	40150	34160	31432	30235	31276	34969	40916
Portugal	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Spain	6823	7292	7553	8026	8553	9024	9714	10402	11070	10974
Sweden	1749	1989	1988	2019	2126	2455	3351	3706	3957	4181
United Kingdom	10130	11620	11909	10955	10178	11128	12975	13382	16036	17773
Central and East European New Member States of the EU										
Bulgaria	909	700	721	721	731	n.a.	n.a.	1150	1202	1595
Czech Republic	n.a.	1556	1403	1528	1522	1561	1621	1625	1867	2375
Estonia	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Latvia	n.a.	n.a.	n.a.	546	526	1031	2301	3591	5055	2759
Lithuania	n.a.	294	321	468	390	406	536	734	241	311
Hungary	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Poland	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Slovakia	n.a.	895	878	888	912	946	981	1017	1121	1211
Slovenia	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Romania	n.a.	351	308	278	237	284	879	1000	972	1408

n.a.: not available

Note. The existing information from Eurostat database on land prices and rents is currently not harmonised. Data are collected and aggregated based on each Member State practice and method.

Source: Country reports prepared for this study for Romania and Bulgaria, Eurostat available for the other Member States of the EU.

9. SOCIO-ECONOMIC STRUCTURE OF THE AGRICULTURAL SECTOR: EVOLUTION AND COMPARISON WITH THE EU

9.1 Unemployment and GDP

If we look at some general economic indicators, we see that the unemployment rates in Bulgaria and Romania are comparable to the average unemployment rates of the EU-15 and EU-25. The Romanian unemployment rate was already comparable to the EU-15 and EU-25 rate in 2000 (Figure 12). The Bulgarian unemployment rate was twice as high as the average unemployment rate of the EU-15 and EU-25 in 2000, but this disparity has decreased considerably since 2001. Notably, the unemployment rate in both countries is now even less than the EU-15 and EU-25 average.

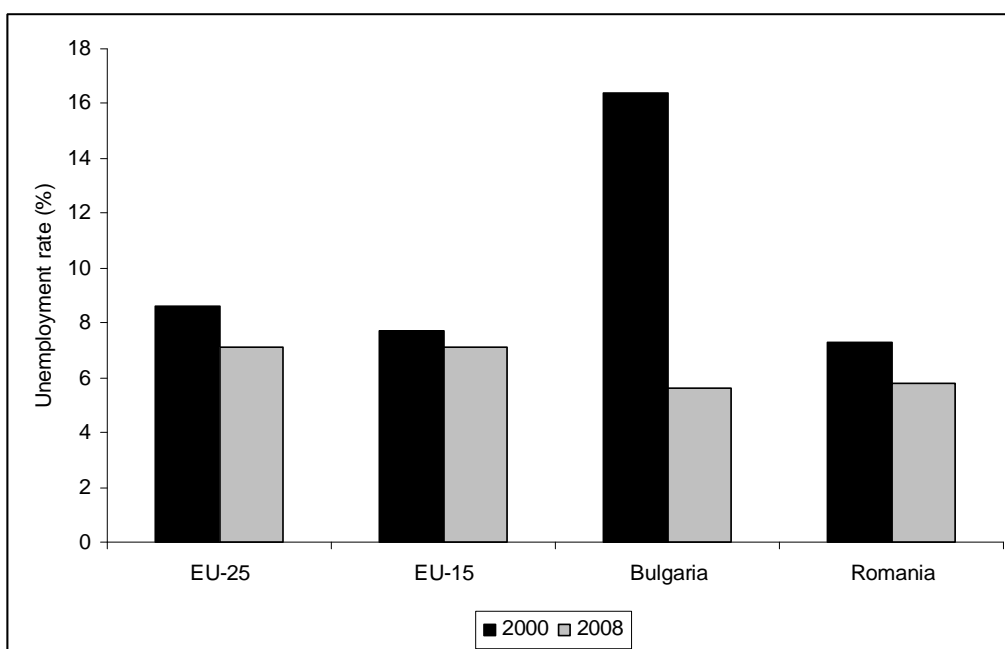
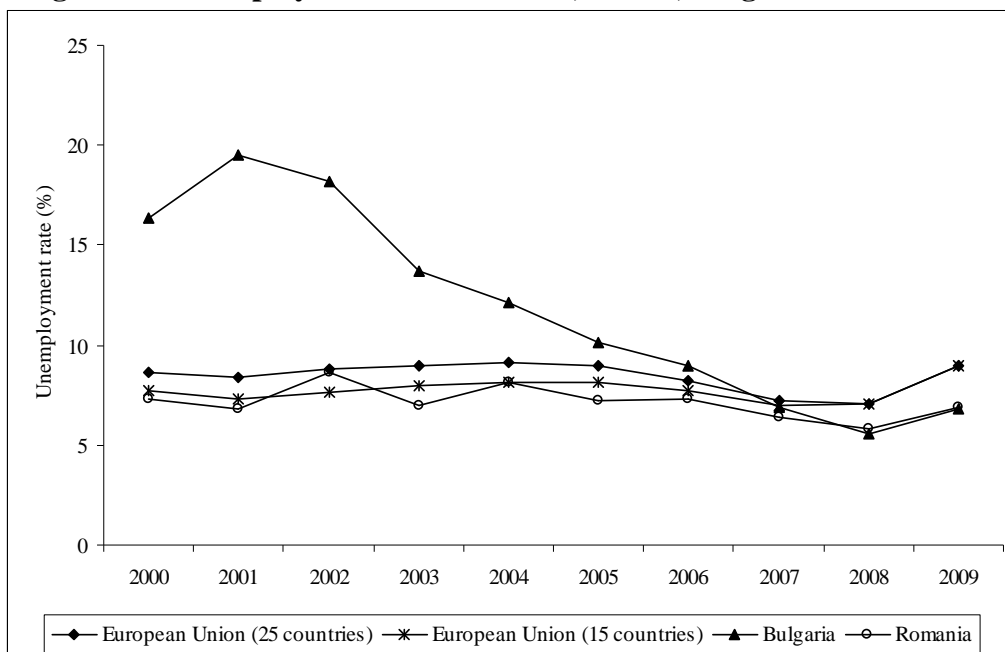
The GDP per capita of Bulgaria and Romania is still considerably lower than the other Member States. The gap has been closing, however. In 2000, the GDP per capita of Bulgaria and Romania was around 25% of the EU-25 GDP, yet by 2008, it was 40% or more (Figure 13).

9.2 Share of agriculture in employment and gross value added

The share of agriculture in employment was and is much higher than in the EU-15 and EU-25. The share of agriculture in employment is especially high in Romania where the agricultural sector accounted for more than 40% of total employment in 2000 (Figure 14). This number decreased to 28% in 2007, which is still more than five times higher than in the EU-15 and EU-25. The share of agriculture in total employment is smaller in Bulgaria than in Romania, but its magnitude is still not comparable with the average levels in the EU-15 and EU-25. In 2007, the share of agriculture in total employment decreased to 18% in Bulgaria, while it equalled 5% in the EU-25 and 4% in the EU-15.

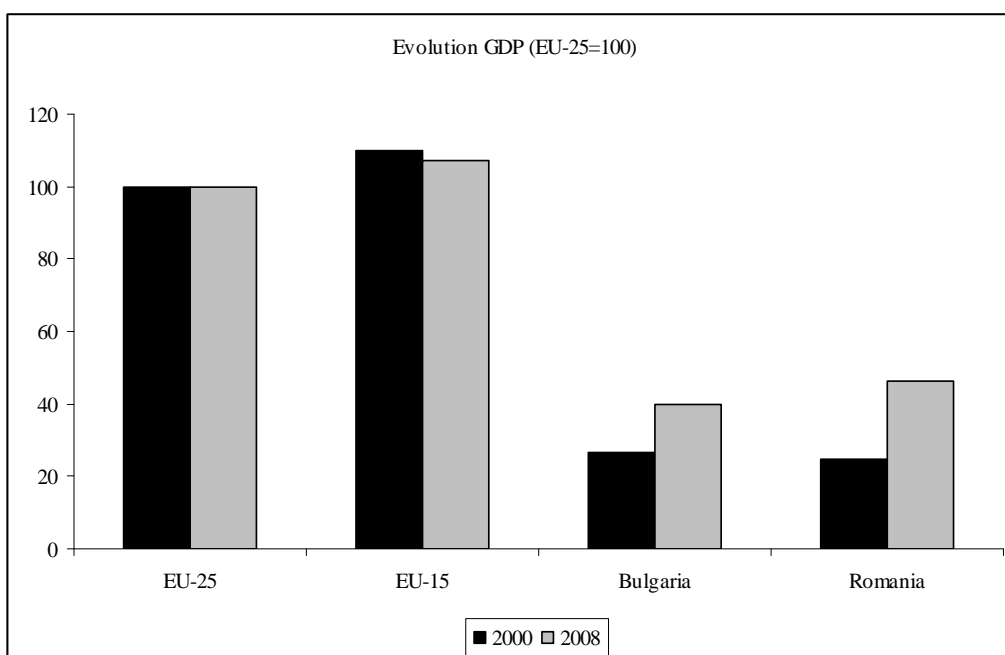
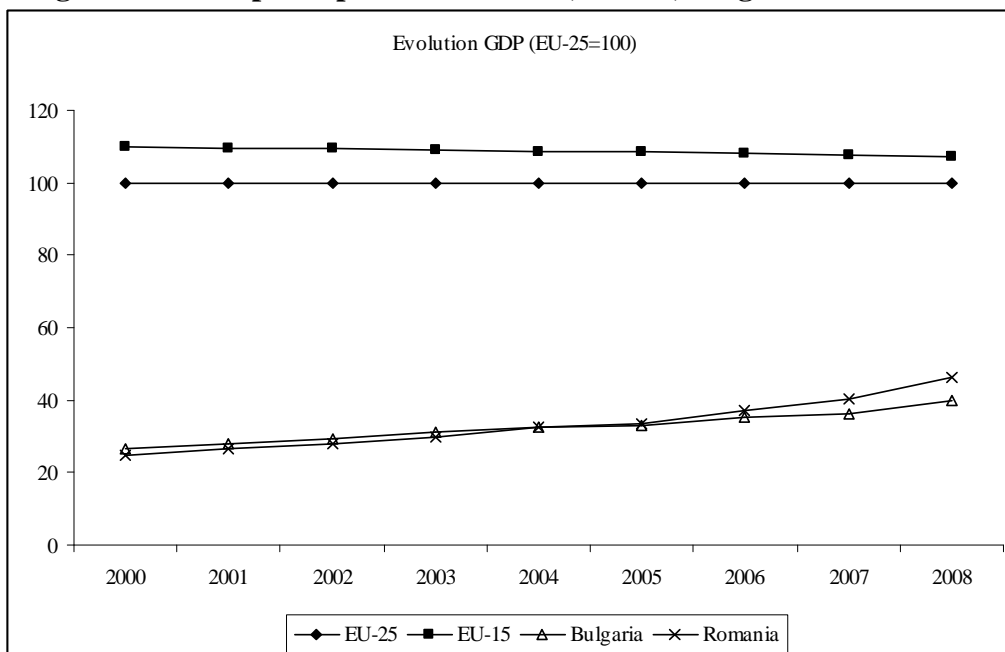
In Bulgaria and Romania, the share of agriculture, including fishing, forestry and hunting, in total gross value added is larger than in the EU-15 and EU-25, but the difference is diminishing (Figure 15). In 2000, the share of agriculture in gross value added equalled 2.2% in the EU-25 and 2.4% in the EU-15, while it was 13.3% in Bulgaria and 12.5% in Romania. By 2008, these shares were 1.7% in the EU-25, 1.5% in the EU-15, 8.1% in Bulgaria and 6.9% in Romania.

Figure 12. Unemployment rate in EU-15, EU-27, Bulgaria and Romania



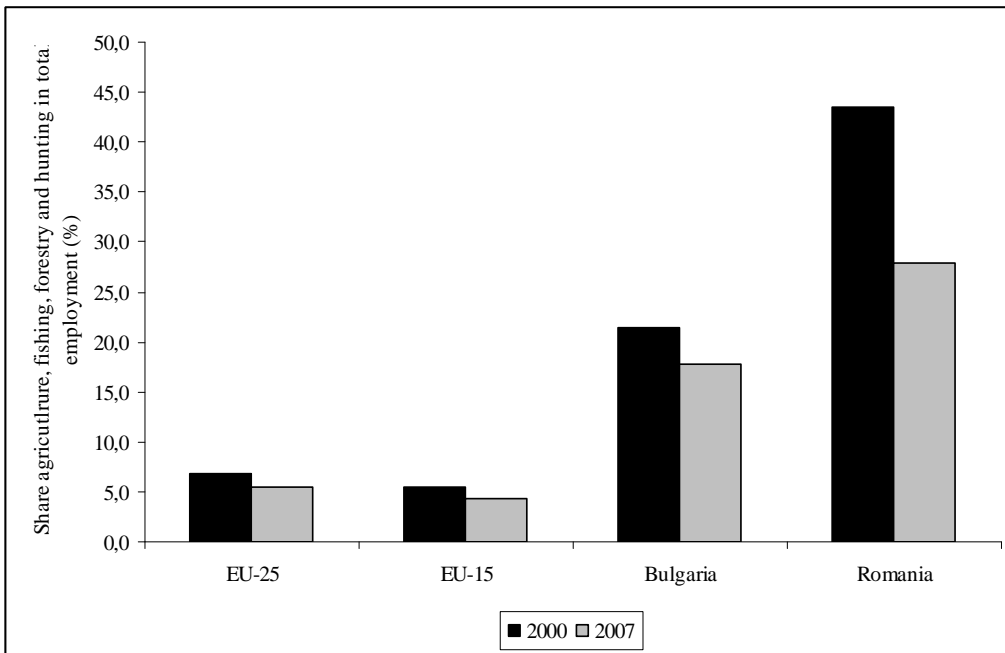
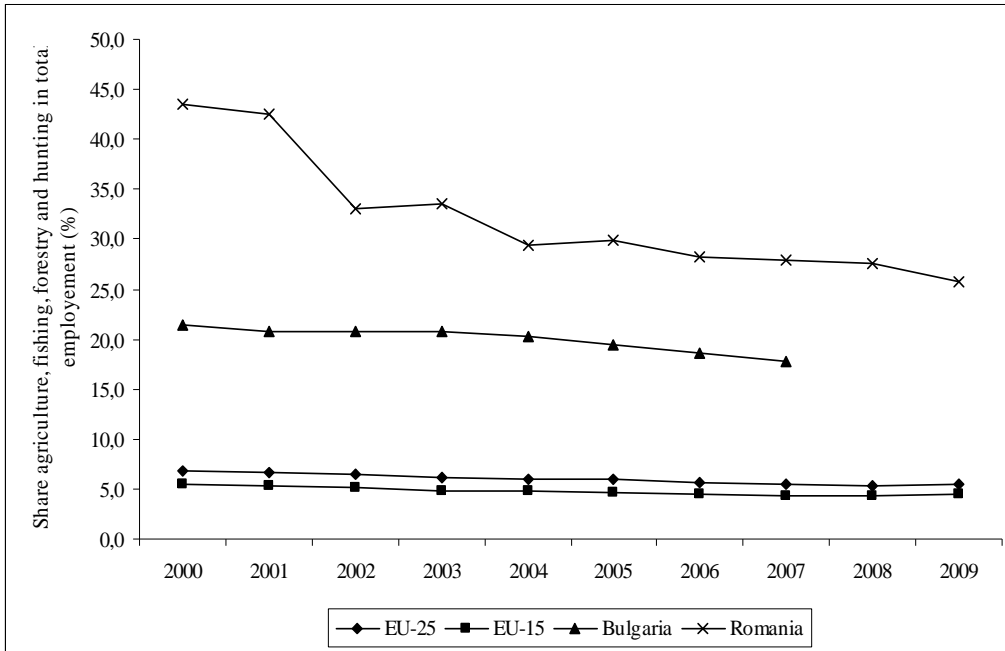
Source: Labour Force Survey, Eurostat

Figure 13: GDP per capita in the EU-25, EU-15, Bulgaria and Romania



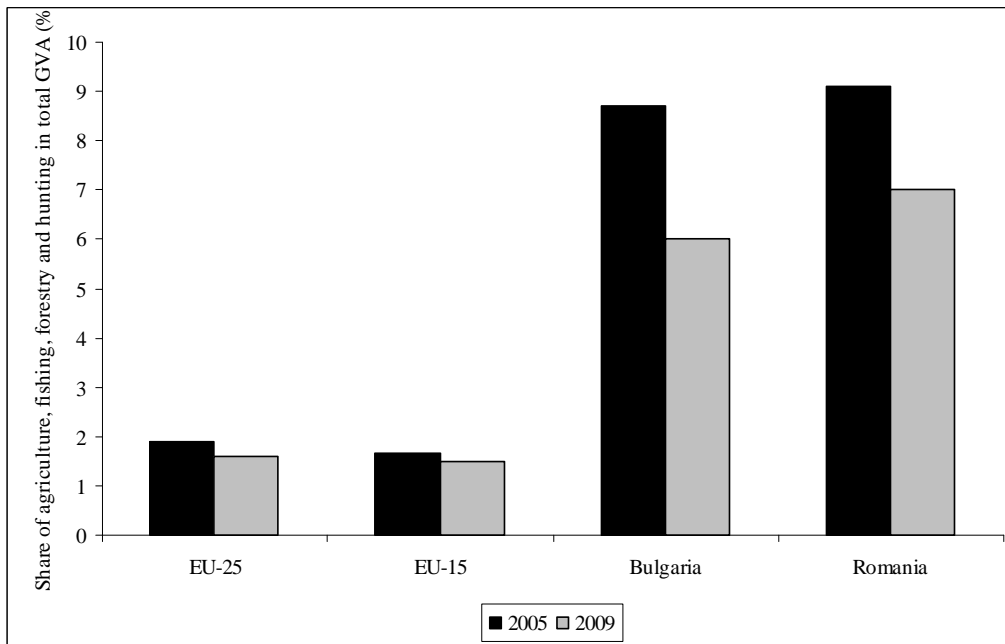
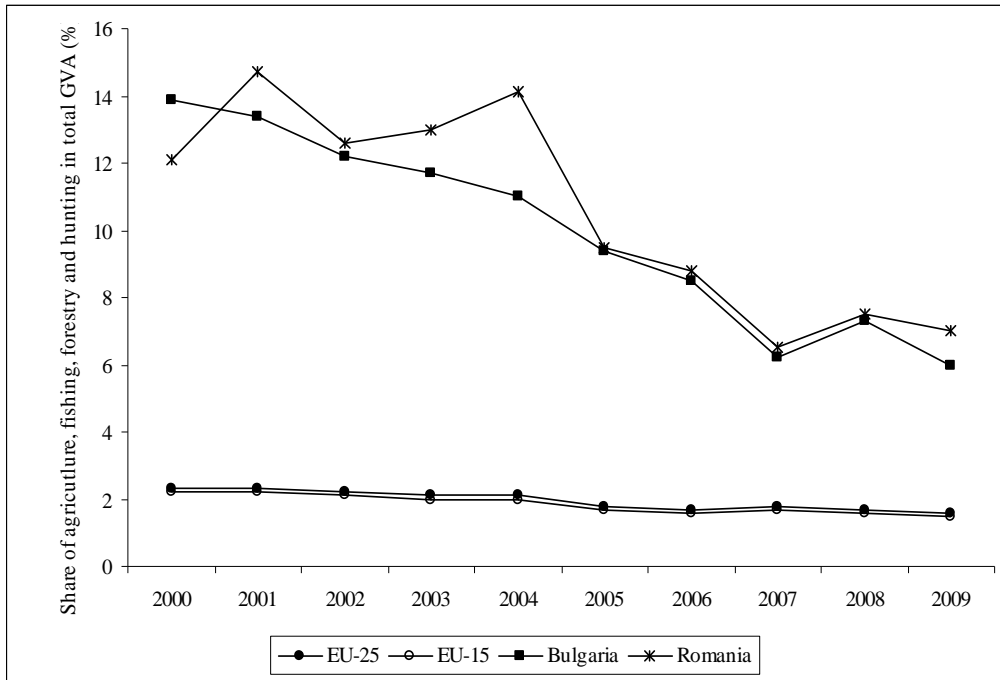
Source: Eurostat

Figure 14: Share of agriculture, fishing, forestry and hunting in total employment in EU-25, EU-15, Bulgaria and Romania



Source: National Accounts, Eurostat

Figure 15: Share of agriculture, fishing, forestry and hunting in total GVA in the EU-25, EU-15, Bulgaria and Romania

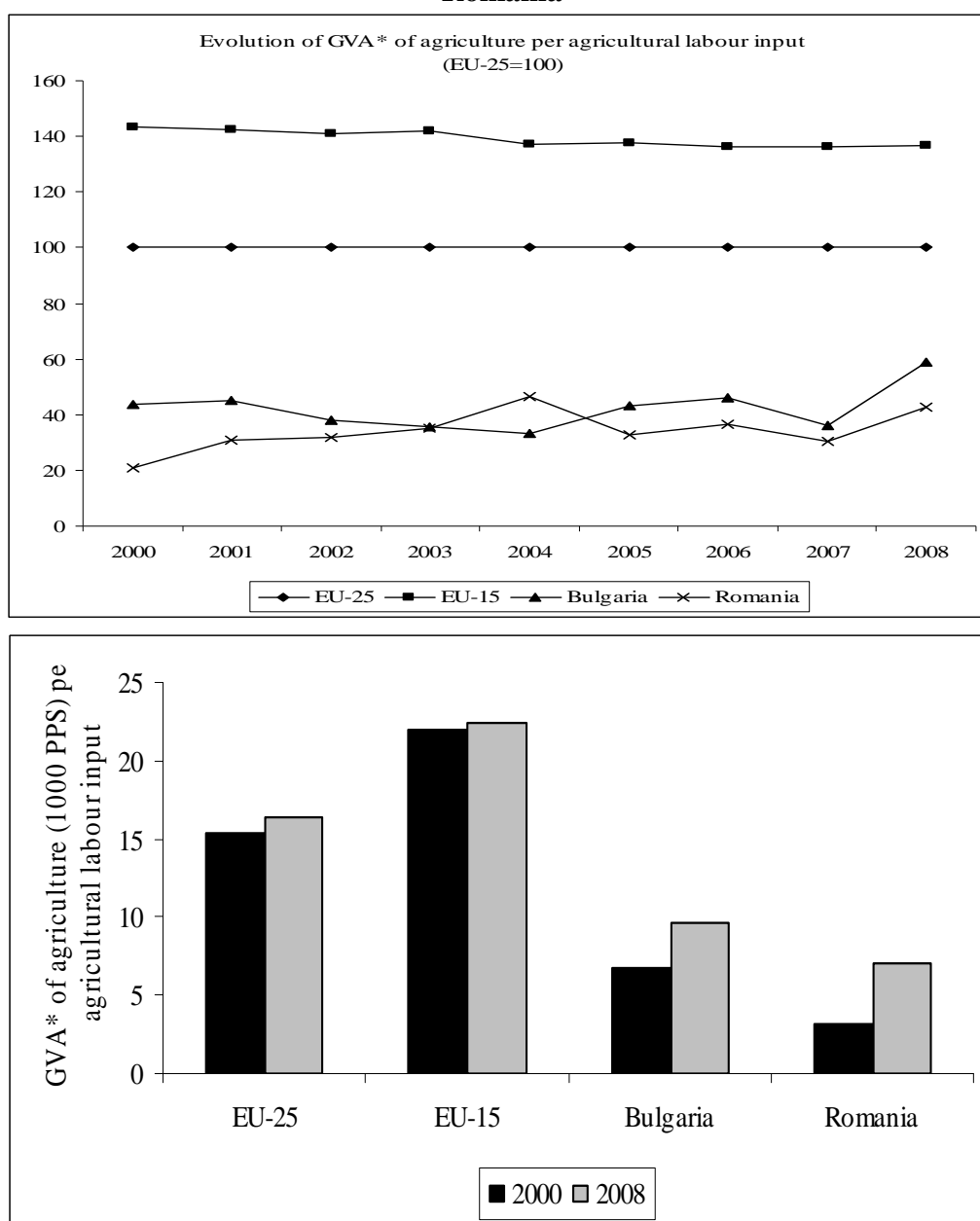


Source: National Accounts, Eurostat

9.3 Labour productivity

In Bulgaria and Romania, the gross value added per agricultural labour input was respectively 44% and 21% of the level of the EU-25 in 2000 (Figure 16). The gap in value added per agricultural labour input between the two new EU Member States, Bulgaria and Romania, and the EU-25 is closing although large differences still persist. In Romania, the share of value added per agricultural labour input was around 45% of the level of the EU-25 by 2008. The situation was slightly better in Bulgaria where it was around 60% of the level of the EU-25.

Figure 16: GVA per agricultural labour input in EU-25, EU-15, Bulgaria and Romania



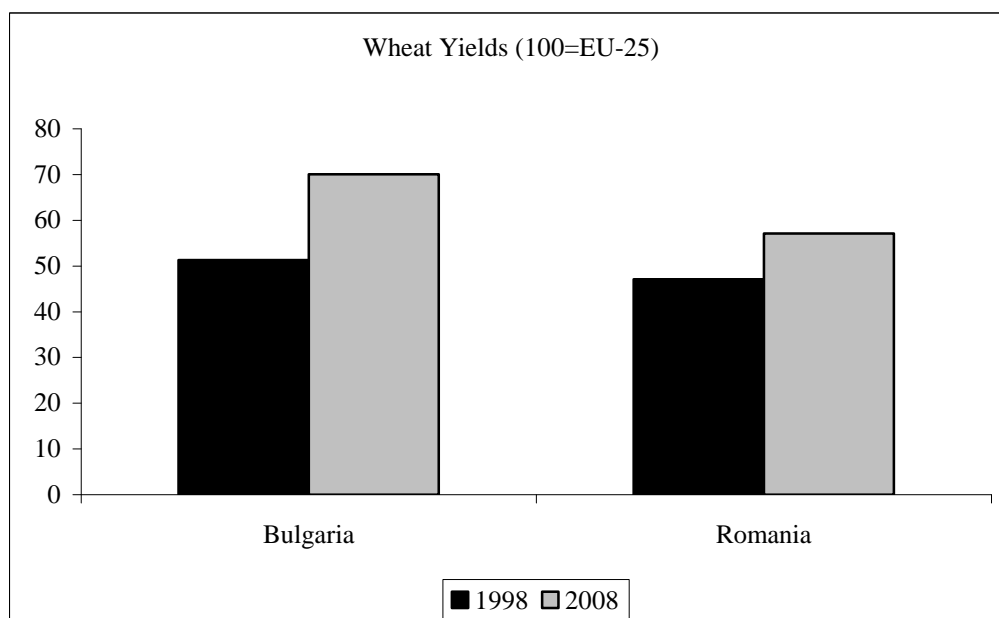
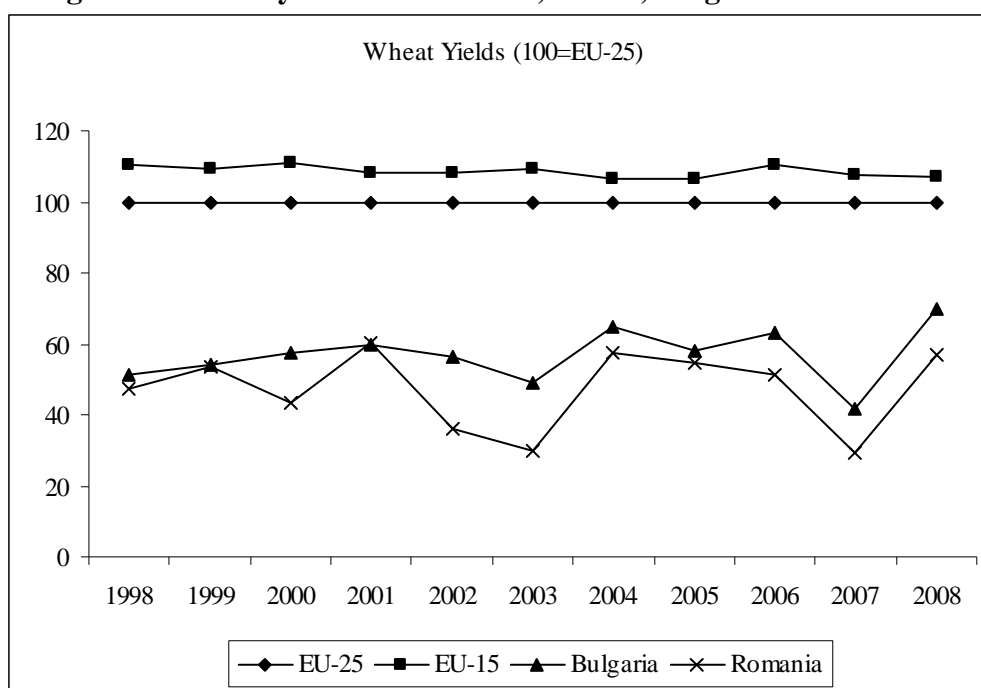
* GVA is expressed in millions of PPS

Source: Economic Accounts for Agriculture, Eurostat

9.4 Wheat yields

At the end of the 1990s, the yields in Romania and Bulgaria were around 50% of the yields in the EU-15. While wheat yields fluctuate strongly due to for example local weather conditions, it seems that the gap in yields between the two new EU Member States and the EU-25 is slowly decreasing. By 2008, yields in Bulgaria were around 70% of the EU-25 level and around 60% of the EU-25 level in Romania.

Figure17: Wheat yields in the EU-25, EU-15, Bulgaria and Romania



Source: Economic Accounts for Agriculture, Eurostat

9.5 Agricultural income

There are still very large differences in agricultural income among the EU Member States. Figure 18 and 19 illustrates the evolution of agricultural income according to the Eurostat approach, which is to calculate agricultural income as factor incomes per annual working units²³.

According to these indicators, differences in agricultural income between the EU-25 and Bulgaria and Romania decrease over time but remain important.

If we eliminate price level differences across countries, we see that agricultural income, expressed in terms of purchasing power standards (PPS)²⁴ per agricultural working unit (AWU), in the EU-15 is four times larger than in Romania and twice as large as in Bulgaria (Figure 18). In 2008 agricultural income in PPS per AWU in Romania is comparable with the level in some EU-7 countries such as Latvia, Lithuania and Poland, but still much lower than in the Czech Republic, Estonia, Hungary and Slovakia. Agricultural income in PPS per AWU in Bulgaria is closer to the EU-7 average. Bulgarian agricultural income in PPS per AWU is a bit lower than in the Czech Republic, Estonia, Hungary and Slovakia, but higher than in Latvia, Lithuania and Poland.

If we look at the evolution of agricultural income (Figure 19), expressed in euro per AWU, we also see that the gap in agricultural income is diminishing over time. However, the differences between the EU-15 and Bulgaria and Romania remain very large. In 2009 agriculture income²⁵ (in euro/AWU) in the EU-15 is 8 times larger than in Romania and 4 times as large as in Bulgaria. Further, agricultural income in Bulgaria is comparable to the EU-7 average, while the level in Romania is less than half of the EU-7 average.

Finally, agricultural incomes declined substantially in 2009 in most of the EU, as illustrated by Figure 20. On average, real agricultural income per labor unit declined by 11.6% in the EU-27 in 2009 compared to 2008. However, there are large variations among the member states. In six EU countries agricultural incomes increased: Malta (+7.8%), Denmark (+4.3%), Finland (+2.6%), Cyprus (+1.1%), Belgium (+0.4%) and Greece (+0.3%). In contrast, large decreases in agricultural income were recorded in other member states. Agricultural income decreased in both Bulgaria and Romania: with 10.0% in Bulgaria and with 18.3% in Romania.

9.6 Summary

There has been important growth in incomes and agricultural productivity in Bulgaria and Romania, despite the restrictions on foreign ownership of land. Yields and labour productivity in the agricultural sector of Bulgaria and Romania have seen strong

²³ According to Eurostat, the main indicator for agricultural income is the 'Factor income per labour input' (http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Glossary:Agricultural_income).

²⁴ The PPS (purchasing power standard) is an artificial currency unit that reflects differences in national price levels that are not taken into account by exchange rates. This unit allows meaningful volume comparisons of economic indicators between countries.

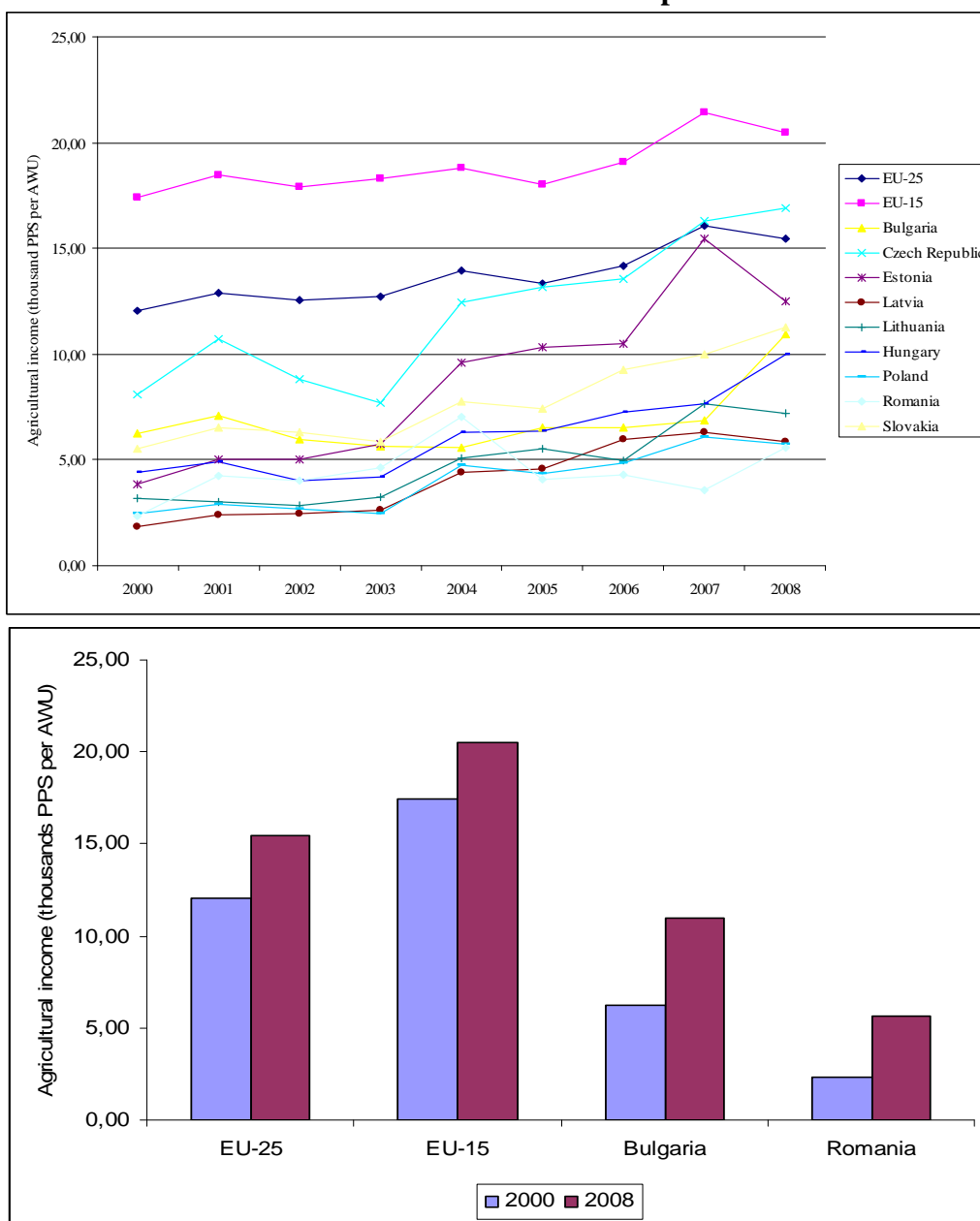
²⁵ 2009 Agricultural income data in Eurostat are estimated and not definitive data.

increases over the past few years. Productivity, incomes and profits in Bulgarian and Romanian agriculture are considerably higher now than they were five years ago, before accession.

The rise in agricultural productivity and incomes stems from a combination of improvements in factor markets and institutions, subsidies, investment in the food chain and spillover effects from the growth of the general economy.

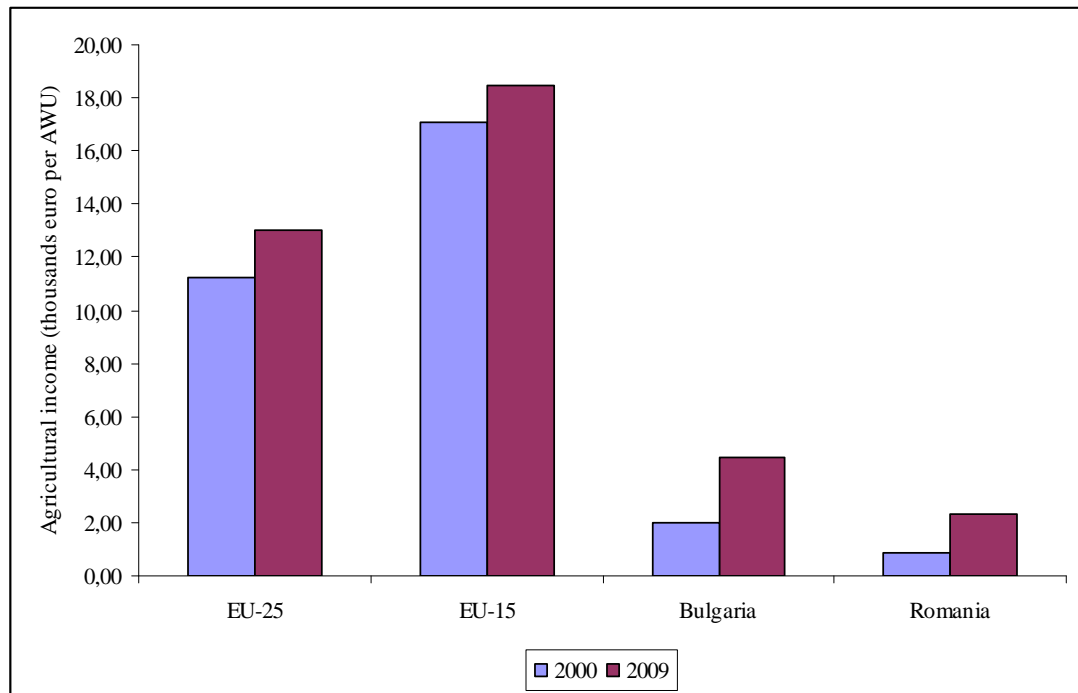
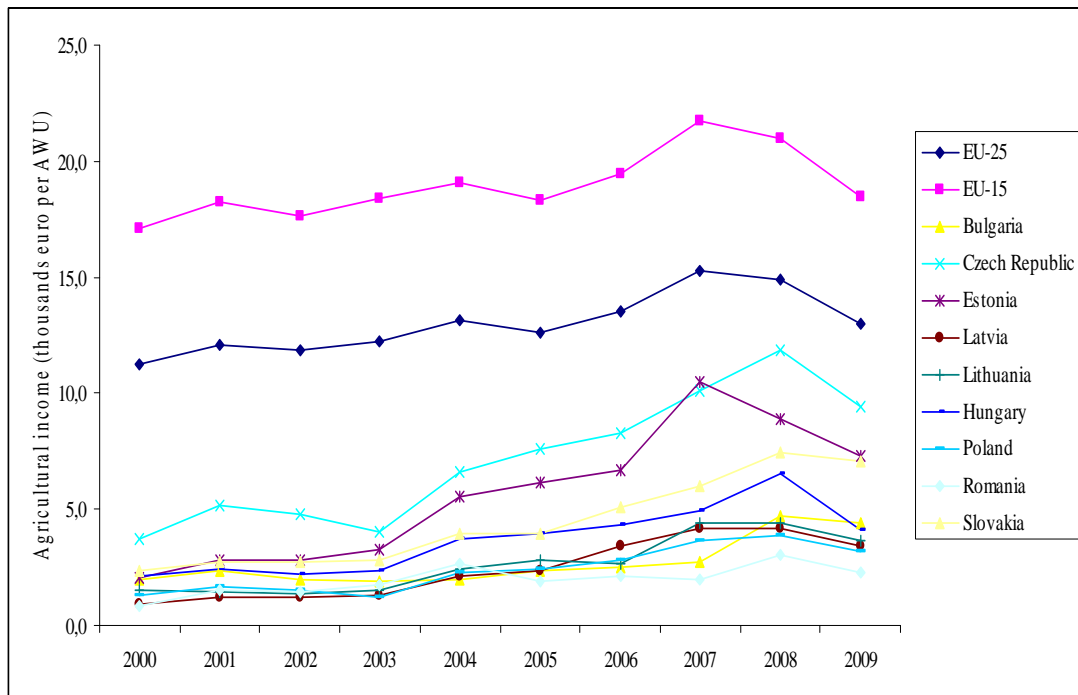
The gap between Bulgaria and Romania and the EU-25 in terms of incomes and productivity has also narrowed over recent years. Various socio-economic indicators, such as agricultural productivity, unemployment, overall GDP and the share of agriculture in GDP and in employment show that the differences between Bulgaria and Romania and the EU-15 are diminishing over time. However, despite these marked improvements, there are still significant disparities in terms of income per capita and productivity in agriculture between the EU-25 (and particularly the EU-15) and Bulgaria and Romania.

Figure 18: Agricultural income in PPS in the EU-25, EU-15, EU-7 and Bulgaria and Romania – in thousands PPS per AWU



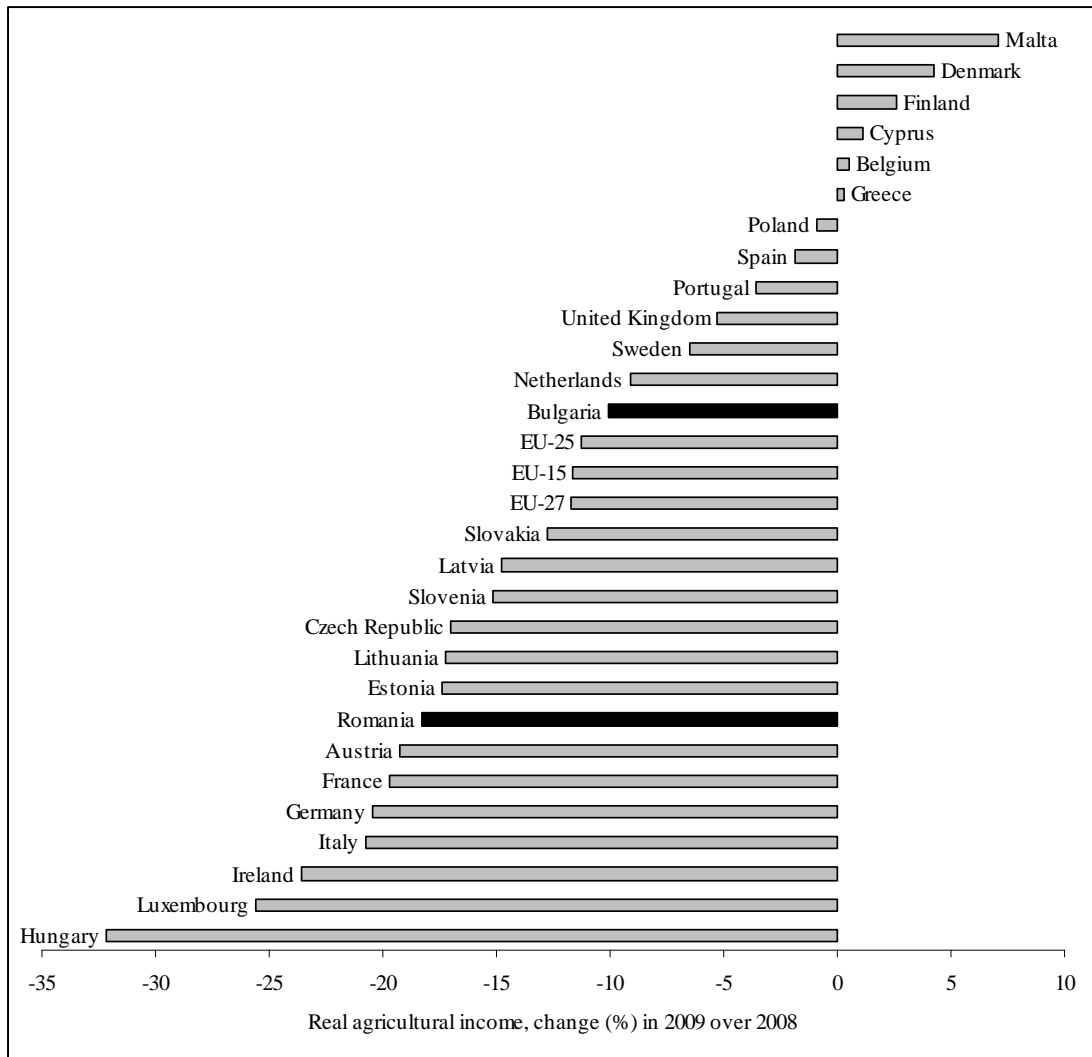
Source: Economic accounts for Agriculture, Eurostat

Figure 19: Agricultural income in the EU-25, EU-15, EU-7 and Bulgaria and Romania – in thousands euro per AWU



Source: Economic accounts for Agriculture, Eurostat

Figure 20: Real agricultural income in the EU-27, change (%) in 2009 over 2008



Source: Economic accounts for Agriculture, Eurostat

10. CONCLUSIONS

Restrictions on foreign ownership have affected the efficiency of land exchanges, land allocation and productivity growth. Yet, the impact is mitigated by several factors.

First, the restrictions do not fully constrict activities by foreign citizens in the agricultural and rural land markets of Bulgaria and Romania, for a number of reasons:

- There are exceptions to the restrictions on foreign ownership of agricultural land. In general, foreigners who are self-employed farmers and who wish to establish themselves and reside in Bulgaria and Romania are allowed to purchase agricultural land.
- There are no restrictions on renting land to foreigners. This aspect of the transitional arrangements is important since land rental is the most important form of land exchange in Bulgaria. In Romania it is less important on aggregate, but it is important for larger farms, which are the kinds of farms in which one would expect foreign investment.
- There are no restrictions on acquisitions of land of legal entities which are registered in Bulgaria and Romania, respectively. While there are hardly any official or representative data on the acquisition of land by legal entities with foreign capital, various sources of evidence all suggest that there is substantial investment by such legal entities with foreign capital, including acquisition of agricultural real estate.

Second, the restrictions are only one element constraining the functioning of the land markets in Bulgaria and Romania. Several other impediments are affecting the development of the land markets and hence their potential to transfer land from the least to the most productive users. The development of the land market is still affected by high transaction costs related to changes in plot allocation and transfer of the ownership title, along with co-ownership problems. Further obstacles for the development of the Bulgarian land market are the high costs of withdrawing land from the large-scale corporations cultivating it as well as the difficulties of obtaining physical access to the land and identifying the boundaries. Fragmentation of land ownership also results in high transaction costs because farmers need to settle land rental agreements with different owners to be able to operate consolidated land parcels.

Third, while the restrictions have held back some of the direct benefits of foreign investment, agriculture in Bulgaria and Romania has benefited extensively from large foreign investments in related sectors. While foreign investment in agriculture (and the associated benefits) may have been constrained through the restrictions on foreign land ownership, there appears to have been considerable foreign involvement in the agricultural sector through foreign participation in the capital of domestic legal entities. In addition, there have been substantial foreign investments in the Bulgarian and Romanian food industry and agribusiness. These investments have had significant, positive spillover effects on the farms, as foreign companies have introduced technology, know-how and capital into the food chain, which has

contributed to greater investment and enhanced product quality in the Bulgarian and Romanian agricultural sector.

Fourth, there has been strong growth in agricultural productivity along with land exchange and reallocation in Bulgaria and Romania, despite the restrictions.

- We observe a significant increase in agricultural land prices since 2000, and EU accession appears to have reinforced this effect.
- EU agricultural subsidies, besides productivity increases, have contributed to the increase in Bulgarian and Romanian land prices.
- Prices and price changes differ substantially between regions and plots. In particular, parcels located near cities and touristic areas are more expensive than other parcels, most likely caused by sales for non-farm purposes.
- Rental is an important form of land exchange especially in Bulgaria and in Romania also for the larger farms.
- Foreign investments in agriculture through legal entities and in the food industry (through spillovers) have stimulated land transactions and productivity gains.
- Yields and productivity have been raised for a combination of reasons, such as improved factor markets and institutions, investment in the food chain and spillover effects of growth in the general economy.

It is unclear how much more growth in productivity and land market development would have resulted from fully liberalising Bulgarian and Romanian agricultural land with respect to foreign ownership.

The issues underlying the concerns of Bulgaria and Romania – that there would be a massive takeover of land by foreigners if restrictions were not in place – have diminished, but they have not fully disappeared.

The gap between Bulgaria and Romania and the EU-25 in terms of incomes, productivity and land prices has narrowed over the past few years.

- Various socio-economic indicators, such as agricultural productivity, unemployment, overall GDP, the share of agriculture in GDP and in employment show that the differences between Bulgaria and Romania and the EU-25 are reducing over time.
- Productivity, incomes and profits in the agricultural sector in Bulgaria and Romania are considerably higher now than they were five years ago, before accession. Subsidies have also been increasing in Bulgaria and Romania.
- Additionally, land prices are rising in Bulgaria and Romania, reducing the gap with the EU-25.

There nonetheless remains a sizeable disparity between Bulgaria and Romania and the EU-25 in terms of land prices, incomes and subsidies. Despite the marked increase, Bulgarian and Romanian land prices remain significantly below those in the EU-25. The same holds for the average income per capita and value added per worker in the agricultural sector.

If the full liberalisation of land, now, or before the end of the transition period, turns out to be politically impossible in the mid-term review process, changes that are more moderate could be considered. The most effective proposals for change would be those that would have limited effect on the social and political frameworks and would be most successful in stimulating economic benefits.

Two recommendations are to

- allow foreign citizens to acquire agricultural land without restrictions for a certain maximum amount of agricultural land, and
- allow foreign citizens to acquire farm buildings and the land on which these are built without restrictions.

The law could for example allow foreigners to acquire agricultural land without restrictions if the plot of land is less than 10 ha. In addition, foreign nationals could be allowed to acquire a farmstead formed as an independent real property of, something like, 6.000 m², or real estate to build the farm buildings necessary to set up a farm (as, for example, in Hungary where this exception holds for acquiring farmsteads and farm buildings for intensive livestock breeding).

Both proposals could result in substantial economic benefits because they would allow those foreign citizens interested in investing in the agricultural sector in Bulgaria and Romania to do so by combining renting and owning land in their farm operations, as do many farms in the EU-25 and in Bulgaria and Romania. They could acquire land for long-term investment (such as stables, farmhouses and greenhouses) and rent the rest of the land. At the same time the proposals should have minimal impact on the total amount of land owned by foreigners in Bulgaria and Romania, since it would still prevent the purchase of large areas by foreigners.

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Appendix

**Appendix 1:
Legal Framework with Regard to the Acquisition of Agricultural Real Estate**

**Appendix 2:
Data Sources**

**Appendix 3:
Bulgarian Country Report**

**Appendix 4:
Romanian Country Report**

Appendix 1:
Legal Framework with Regard to the Acquisition of Agricultural Real Estate

1. BULGARIA

A. Treaty concerning the Accession of the Republic of Bulgaria and Romania to the European Union

Protocol concerning the conditions and arrangements for admission of the republic of Bulgaria and Romania to the European Union

Part four

Temporary provisions

Title I

Transitional Measures

Article 20

The measures listed in Annexes VI and VII to this Protocol shall apply in respect of Bulgaria and Romania under the conditions laid down in those Annexes.

ANNEX VI

List referred to in Article 20 of the Protocol: transitional measures, Bulgaria

3. FREE MOVEMENT OF CAPITAL

2. Notwithstanding the obligations under the Treaty establishing a Constitution for Europe, Bulgaria may maintain in force for seven years from the date of accession the restrictions laid down in its legislation, existing at the time of signature of the Treaty of Accession, on the acquisition of agricultural land, forests and forestry land by nationals of another Member State, by nationals of the States which are a party to the European Economic Area Agreement and by legal persons formed in accordance with the laws of another Member State or an EEAA State. In no instance may a national of a Member State be treated less favourably in respect of the acquisition of agricultural land, forests and forestry land than at the date of signature of the Accession Treaty or be treated in a more restrictive way than a national of a third country.

Self-employed farmers who are nationals of another Member State and who wish to establish themselves and legally reside in Bulgaria, shall not be subject to the provisions of the preceding subparagraph or to any procedures other than those to which nationals of Bulgaria are subject.

B. Constitution of the Republic of Bulgaria²⁶

The Constitution is a supreme law in the country. It provides the general framework of ownership and acquisition of land by foreigners. In the Constitution

²⁶ With effect from 13.07.1991 on Prom. SG. br.56 of 13 July 1991., amend. SG. br.85 of 26 September 2003., amend. SG. issue 18 of 25 February 2005., amend. SG. issue No 27 of 31 March 2006., amend. SG. br.78 of 26 September 2006., amend. SG. br.12 of 6 February 2007.

it is declared that: *'(i)The right to property and inheritance is guaranteed and protected by law. (ii) Property is a private and public. (iii) Private property is inviolable.'* (Article 17).

Rights of foreigners and foreign legal entities are determined in Article 22, amended in 2005 and entered in force from 01.01.2007 and shall not apply to international treaties. Foreigners and foreign legal entities may acquire ownership over land under conditions arising from the accession of Bulgaria to the European Union or under an international treaty, ratified, promulgated and entered into force for Bulgaria as well as succession.

C. Ownership and Use of Agricultural Land Law (OUALL)

This law regulates the ownership and use of agricultural land. According to the OUALL:

Art. 3. (Amended - SG. 28, 1992) (1) Agricultural lands can be owned by citizens of the state, municipalities and legal persons.

(2) Political parties and organizations, movements and coalitions for political purposes can not have ownership right on agricultural lands.

(3) (Amended - SG. 28, 1992, amend. - SG. 45 of 1995, amend. - SG. 98 of 1997, amend. - SG. 24 of 2007) Foreign states can not have ownership right on agricultural lands.

(4) (Amended - SG. 28, 1992, amend. - SG. 24, 2007) Foreigners and foreign legal entities may acquire ownership of agricultural land in terms of international treaty ratified pursuant to Art. 22, para. 2 of the Constitution of the Republic of Bulgaria, promulgated and entered into force, and foreigners - and in succession.

(5) (Nova - SG. 24 of 2007) Citizens of countries - members of the European Union and the States - Parties to the European Economic Area, may acquire ownership of agricultural land in terms of this law after the deadline specified in the Accession Treaty of Bulgaria to the European Union.

(6) (Nova - SG. 24 of 2007) Legal persons of the Member - States of the European Union or countries - Parties to the European Economic Area, may acquire ownership of agricultural land under al. 5.

(7) (Amended - SG. 28, 1992, prev. 5 - SG. 24 of 2007) Foreign legal persons and foreign nationals may acquire the right to use agricultural land or other limited property rights over land under conditions and procedures established by law.

Art. 3a. (New - SG. 24 of 2007) (1) Citizens of countries - members of the European Union - self-employed farmers who wish to settle and reside permanently in Bulgaria and are listed as such in the Law of the register BULSTAT can acquire ownership of agricultural and forest property for agricultural use from the date of entry into force of the Treaty of Accession of Bulgaria to the European Union.

(2) Where before the expiry of the Treaty of Accession of Bulgaria to the European Union within the persons under para. 1 cease to operate as self-employed farmers, according to the provisions of Art. 3b.

Art. 3b. (New - SG. 24 of 2007) (1) Foreigners who acquire ownership of agricultural land through inheritance by law, but do not meet the conditions laid down in the Treaty of Accession of Bulgaria to the European Union or otherwise provided for in international treaties, ratified pursuant to Art. 22, para. 2 of the Constitution of the Republic of Bulgaria shall be obliged within three years of opening the inheritance transfer ownership of persons who are entitled to acquire such property.

(2) The persons under para. 1, which was restored ownership of agricultural land, the three year period for transfer of ownership runs from the time of his recovery.

(3) Failure of the period under par. 1, the Member may purchase agricultural land at prices fixed by ordinance of the Council of Ministers.

Art. 10a.

(3) (Amended - SG. 24 of 2007) Foreign nationals whose property rights have been restored under this Article shall, within three years to transfer it to persons who are entitled to acquire agricultural land .

(4) (New - SG. 24 of 2007) Paragraph 3 does not apply to nationals of the Member - States of the European Union and the States - Parties to the European Economic Area, as well as other countries under a contract under Art. 3, para. 4.

2. ROMANIA

A. Treaty concerning the Accession of the Republic of Bulgaria and Romania to the European Union

PROTOCOL

Concerning the conditions and arrangements for admission of the republic of Bulgaria and Romania to the European Union

Part four

Temporary provisions

Title I

Transitional Measures

Article 20

The measures listed in Annexes VI and VII to this Protocol shall apply in respect of Bulgaria and Romania under the conditions laid down in those Annexes.

ANNEX VII

List referred to in Article 20 of the Protocol: transitional measures, Romania

3. FREE MOVEMENT OF CAPITAL

Treaty establishing a Constitution for Europe.

2. Notwithstanding the obligations under the Treaty establishing a Constitution for Europe, Romania may maintain in force for seven years from the date of accession the restrictions laid down in its legislation, existing at the time of signature of the Treaty of Accession, on the acquisition of agricultural land, forests and forestry land by nationals of the Member States, by nationals of the States which are a party to the European Economic Area Agreement and by companies formed in accordance with the laws of another Member State or an EEA State which are neither established nor registered in Romania. In no instance may a national of a Member State be treated less favourably in respect of the acquisition of agricultural land, forests and forestry land than at the date of signature of the Accession Treaty or be treated in a more restrictive way than a national of a third country.

Self-employed farmers who are nationals of another Member State and who wish to establish themselves and reside in Romania, shall not be subject to the provisions of the preceding subparagraph or to any procedures other than those to which nationals of Romania are subject.

B. Law no. 247 of 19/07/2005 on the reform in ownership and justice, as well as certain related measures, published in Romania's Official Gazette (Journal) no. 653 of 22/07/2005, TITLE X Legal circulation of land:

Art. 3. - The foreign citizens and the stateless persons, as well as the foreign legal entities can acquire the ownership right on land areas in Romania under the conditions stipulated by the special law.

Art. 8. - At the date of coming into force of the present law, the following are repealed:

Art. 9 from the Land Lease Law no.16/1994, published in Romania's Official Gazette, Part I, no. 91 of 7 April 1994, with its subsequent modifications and completions, Law no. 54/1998 on the legal circulation of land published in Romania's Official Gazette, Part I, no. 102 of 4 March 1998, Government's Emergency Ordinance no.226/2000 on the legal circulation of land with forestry destination, published in Romania's Official Gazette, Part I, no. 606 of 25 November 2000, as approved with modifications and completions by Law no. 66/2002, as well as any other contrary provisions.

C. Law 312 of 10 November 2005 on acquiring the private land ownership right by the foreign citizens and stateless persons, as well as by the foreign legal entities, published in Romania's Official Gazette 1008 of 14 November 2005:

Art. 5

- (1) The citizen of a Member State, the stateless person with domicile in a Member State or in Romania, as well as the legal entity established in conformity with the legislation of a Member State can acquire the ownership right on the agricultural land, forests and forestland after 7 years from the date of Romania's accession to the EU.
- (2) The provisions from paragraph (1) are not applied to the farmers who are self-employed and are, according to the case:
 - a) citizens of the Member States, stateless persons with domicile in a Member State, who establish their residence in Romania;
 - b) stateless persons with their domicile in Romania.
- (3) The citizens of the Member States or stateless persons with domicile in a Member State prove their self-employed farmer quality on the basis of documents issued by the competent authorities from the Member State or from their country of origin. The stateless persons with their domicile in Romania prove this quality with the certificate issued by the Ministry of Agriculture, Forests and Rural Development.
- (4) The persons provided under par. (2) acquire the ownership right on the agricultural land, forests and forest land under the same conditions with those applicable to the Romanian citizens, from the date of Romania's accession to the European Union.
- (5) The destination of the agricultural land, forests and forestland cannot be changed by the persons provided under paragraph (2) in the transition period.

Art. 7. – Art. 6 from the Government's Emergency Ordinance no. 92/1997 regarding the direct investments stimulation, published in Romania's Official Gazette, Part I, no. 386 of 30 December 1997, approved with modifications and

completions by Law no. 241/1998, with its subsequent modifications, is modified and it will read as:

*Art.6. – A commercial company, resident or non-resident legal entity, can acquire any real rights on immovable assets, to the necessary extent for carrying out its activity, according to its social object, while respecting the legal provisions regarding the acquiring of ownership right on land by the foreign citizens and stateless persons, as well as by the foreign legal entities.

Original article from EO 92/1997:

Art. 6. – Any investor, resident or non-resident legal entity, can acquire any real rights on the movable and immovable assets.

D. Law 54 of March 1998 on legal circulation of land

Art. 1- Land areas into private ownership, regardless of their titular, are and will remain into the civil circuit.

Art. 3

- (1) Foreign citizens cannot acquire property right on land
- (2) Romanian citizens with the domicile abroad can acquire land
- (3) Foreign legal persons cannot acquire land in Romania
- (4) the provisions of the legislation on foreign investments were applied

E. Land Law 18 of February 1991

Restitution of land to former owners or to their heirs

Chapter II Establishment of private property right on land

Chapter IV Legal circulation of the land

Art. 45 – Private land, regardless of its titular, is and shall remain in the civil circuit. It may be acquired and alienated in any of the ways established by the civil legislation, by observing the provision under the present law.

Art. 47 – Natural persons who are not Romanian citizens and do not have their domicile in Romania as well as juristic persons not having Romanian nationality and their headquarters in Romania shall not acquire land of any kind in property by inter vivos deeds.

Art. 48 – Alienation by sale of agricultural land from the outside of the buildable area may be made by exercising the preemption right.

Appendix 2:

Data Sources

The data problems encountered in addressing the key issues in this study were substantial. Ideally, we would have like to use a complex econometric model using cross-border (both EU-25 and Bulgarian and Romanian) representative household and company survey data and panel estimates. Yet, hardly any of the data and information required for estimating such models on these issues were available at the start of the study.

Information about land markets and prices is limited in Eurostat, not just for Bulgaria and Romania but also for the EU-25. Harmonised data were missing to a significant extent and there was no full coverage for the period under study. The lack of harmonised land price and land market data was a serious limitation in our comparative analyses.

Thus, key data have been gathered as part of this study. In fact, a major contribution of the study has been the collection of basic information and data on the land markets in Bulgaria and Romania and the identification of important data gaps.

The country teams have assembled national and – to the extent possible – disaggregated regional data on land prices. Data have been collected by the country teams from official sources such as the national statistical offices, local administrations, and scientific and research institutions. This has been complemented by interviews with local experts and surveys organized for this study.

In particular in Romania, where official land and price data showed major gaps, we used a survey to collect data on land prices, which we then also used to collect information on foreign acquisitions of land. In Romania, in 2005 the pre-emption right was eliminated as a result of the provisions from *Title X Legal Circulation of Land, Law no 247/2005*. This had as a result that the town halls (local councils) were no longer obliged to keep evidence of transactions with *extravillan* agricultural land areas and that the Ministry of Agriculture could no longer put together centralised data on land market transactions. As of 2006, the Cadastre agency, the NACLR, started to register land transactions, but not immediately for the entire country so that there is no official country wide information on land transaction for the 2006-2009 period. Initially, the components of this new information system were put into operation in only three counties, i.e. Buzau, Constanta and Prahovan. Only in 2010 was the new information system operationalized in all the counties.

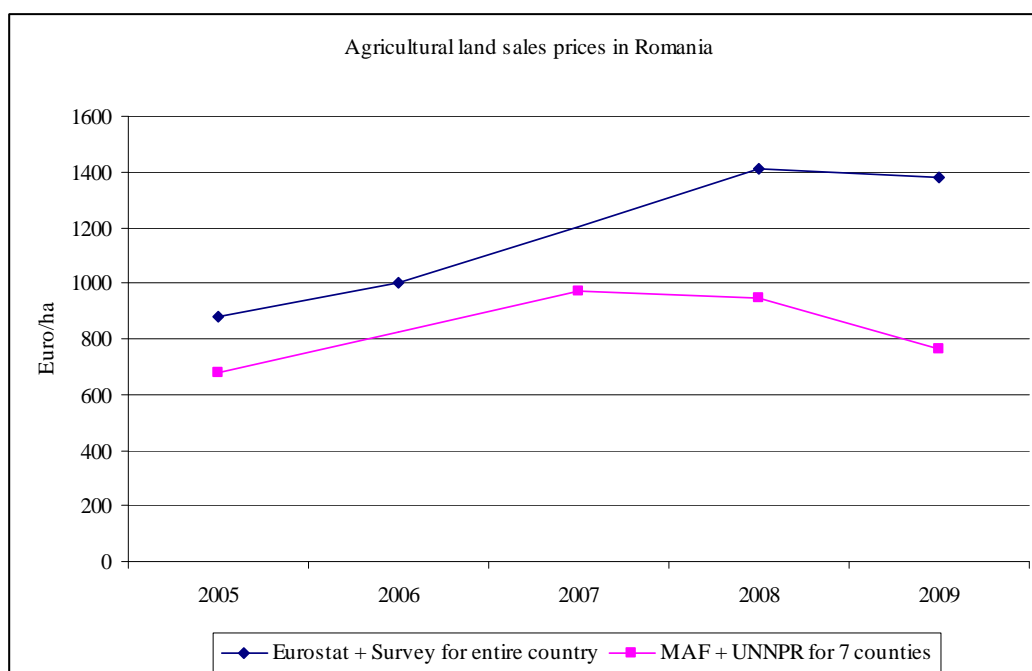
Therefore, our country team implemented a survey among agricultural experts and farmers located throughout the country for the purpose of this study. They relied on a network of experts with national coverage, i.e. the network included experts in 70% of all the counties of Romania. The experts filled out a questionnaire on the evolution of the land market. In some counties, the questionnaire was also filled out by local

farmers. In total, 18 farmers and 30 agricultural experts were interviewed in 30 counties (out of 42) from eight development²⁷ regions.

The evolution of land prices as represented in Figure 9 in the main report is partly based on this survey. More specifically, the land price data in figure 9 are based on Eurostat data for the period 2000-2005. For the data from 2006 to 2009 we relied on our expert survey.

To check the accuracy of the expert data, we compared these country-wide average numbers with official land price information for 7 counties (in contrast to our 30 counties) which was provided by the Ministry of Agriculture and Fisheries for 2005 and was provided by the National Union of Public Notaries (UNNPR) for 2007-2009. This comparison is illustrated in figure A2.1. The data in the figure show that the average for the 7 counties was around 25% lower in 2005 (based on Eurostat data) and was around 30% lower in 2008 (based on our expert survey). In addition, both sets of data show a significant increase from 2005 to 2007 and a limited decline in the most recent years. Hence, this comparison suggests that our expert survey data are most likely capturing the main developments in Romanian land price developments.

Figure A2.1. Comparison of agricultural land sales prices in Romania based on two different data sources



Source: Eurostat, MAF, UNNPR, Expert survey

²⁷ The development regions of Romania (Romanian *Regiunile de dezvoltare ale României*) refer to the eight regional divisions created in Romania in 1998 in order to better co-ordinate regional development as Romania progressed towards accession to the EU.