Access to land for rural regeneration

Willem Korthals Altes, TU Delft
Context

- Urbanisation and rural decline
- Troubled access of new generations to the farming sector.
  - Most farmers > 55 years
  - Few farmers < 35 years
  - The EU allocated € 9.6 billion 2007-2020 as specific aid to young farmers; Not very effective (ECA, 2017)
- Concentrated landownership

<table>
<thead>
<tr>
<th>Eurostat indicators</th>
<th>Urban areas</th>
<th>Rural areas</th>
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<tbody>
<tr>
<td>Population growth 2014-2050</td>
<td>+12%</td>
<td>-7%</td>
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<tr>
<td>GDP per head (2014)</td>
<td>€ 34,179</td>
<td>€ 19,104</td>
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(EP, 2017)
3 General Objectives:
- Foster a Resilient Farm Sector
- Bolster Environment and Climate
- Strengthen Fabric in Rural Areas

9 specific CAP OBJECTIVES

- Increase Competitiveness
- Rebalance Power in Food Chain
- Climate Change Action
- Sustainable Resource Management
- Preserve Landscapes & Biodiversity
- Support Generational Renewal
- Protect Food & health quality
- Vibrant Rural Areas
- Ensure viable Income

Horizon 2020: RURALIZATION

Research and Innovation Action: Objectives

1. To understand rural regeneration,
   - circumstances and drivers that make some rural areas perform better
   - rural regeneration, attracting rural newcomers, new entrants into farming and access to land.
2. To develop, in a multi-actor approach, circumstances and drivers into instruments and strategies.
3. To define and assess innovative instruments and strategies
   - to facilitate rural newcomers, new entrants into farming and access to land and
   - to engage actors from other areas to critically review
   - and develop these instruments and strategies to allow for adaption to wider rural contexts.
4. To provide insight in the rural dreams of new rural generations and to design policies, that may help to make these dreams come true.
5. To harvest potential growth that can be unlocked by overcoming traditional gender roles in the generational renewal of rural areas.
6. Involve relevant actors, disseminate the project, engage actors in a process of ruralisation: rural areas -> exciting place for new generations.
RURALIZATION

More opportunities for new generations

More young people move in, less move out

More economic activities

Relative younger population

Renewal of population
Access to land

- General qualitative analysis of legal and policy arrangements
  - Reports on 28 EU Member states (incl. UK)
- Selective in depth qualitative analysis of legal and policy arrangements
  - 8 Case studies
- Quantitative analysis of land holdings and land market trends
  - EU wide regional data and more focused data covering few regions
- Reflection on current and novel innovative practices
  - Based on experience of innovation partners
- Focus group discussions
Issues

- Legal context: Single European Market:
  - Freedom of Capital limits regulations by Member States
- CAP: decoupled payments
- Differences in local practices of land management
  - Law in action
Decoupled payments

- Holders of agricultural land who keep the land in good agricultural and environmental condition are eligible for the decoupled payments (DP) of the current CAP (Brady et al., 2017).

- So, even with less labour put in the land, the decoupled payments, often in combination with state pensions, may provide a living wage to older farmers (Dwyer et al., 2019).

- The CAP is not only a solution for the stagnation of generational renewal but also a cause of it.

- Furthermore CAP may facilitate rent seeking, not rural development.
European Commission, 2018 (DP: direct payments; VCS: voluntary coupled support)

VCS: “a production-limiting scheme that can only be granted to a list of sectors and productions in sectors or regions where specific types of farming or specific agricultural sectors particularly important for economic, social or environmental reasons undergo certain difficulties.” (EC, 2018)
DP vs Rent

- Few member states (DK and NL): Rents much higher than DP
  - Agricultural production is needed to pay rent
- Several member states: rents and DP are about the same
  - BE, BG, DE, IE, FR, LU, AT, PT, FI, SE, UK
- Many member states: rent is much lower than DP
  - CZ, EE, ES, EL, HR, IT, CY, LV, LT, HU, MT, PL, RO, SI, SK
  - Many of these MS: regions with low quality of government (Charron et. Al, 2016)
  - Some have unclear property rights (examples SK and RO)
    - Property restitution to the heirs of those who owned it before communist time. Transaction costs to allocate these rights to current owners are high.
    - In some MS: minimum size of plot
  - Rent (=DP) seeking at the expense of local development
Singe European Market

 Freedoms of EU, Including:
  - Free movement of capital
  - Freedom of establishment

  - Interpretation of EU law
  - Binding for commission in enforcement (only if in conformance with EU law)
  - Court may decide differently

Restrictions of freedoms are allowable
  “The Treaties allow restrictions on foreign investments in farmland where they are proportionate to protect legitimate public interests such as preventing excessive land speculation, preserving agricultural communities or sustaining and developing viable agriculture.” (EC, 2017, 5; bold by author)
1. Increase the area of land holdings to make them economically exploitable and to avoid land speculation
2. Preserving agricultural communities (distribution of land ownership, viable farms, green spaces and countryside, reasonable use of available land, prevent natural disasters, sustain and develop viable agriculture) “on the basis of social and land planning considerations” (EC, 2017, 11)
3. Preserving traditional forms of farming
4. “to maintain, for town and country planning or regional planning purposes and in the general interest, a permanent population and an economic activity independent of the tourist sector in certain regions” (EC, 2017, 11),
5. Military reasons.

So, EU law allows to limit freedoms for issues of local development and planning.
A measure does not go beyond what is necessary to achieve the “legitimate objective” “in a consistent and systematic manner” (EC, 2017, 12).

Not proportionate if a possible alternative measure is less restrictive

Burden of proof: member state
Potentially allowable

- Prior approval of transfer of agricultural land
  - However no discretionary powers allowing arbitrary decisions, such as
    - under special circumstances
    - sufficient connection with the commune
- Pre-emption right in favour of tenant farmers
- Price controls that prohibit “excessively speculative” (EC, 2017, 13) prices
  - objective, non-discriminatory, precise and well-tailored criteria
  - to save professional farmers from purchase costs endangering profitability
  - no, other, less burdensome alternatives
- Land acquisition caps
  - prevent excessive land ownership concentration,
  - to support family farming and the development of medium-sized farms
  - careful review necessary
- Privileges to local acquirers
  - Highest possible care
  - Target only those groups that need it
Not allowable

- Open norms allowing discretion
- Prohibition of land sales to non-farmers
- Self-farming obligations
- Farming qualification of buyers
- Residence requirements or having knowledge of the language of the country:
  - \textit{indirect discrimination on grounds of nationality}
- Prohibition of sales to legal persons
- Targeting larger groups than is necessary
Emergent practices by intermediary

https://www.accesstoland.eu/
Discussion

- Land is essential for rural development
- The CAP is an instrument to support this (and does so in many cases)
- CAP also attracts rent seekers and may hinder generational renewal
- Quality of land management is essential to use CAP
References


ECA (2017) *EU support to young farmers should be better targeted to foster effective generational renewal*, European Court of Auditors, Luxembourg.


RURALIZATION: [www.ruralization.eu](http://www.ruralization.eu)