

Access to land for rural regeneration

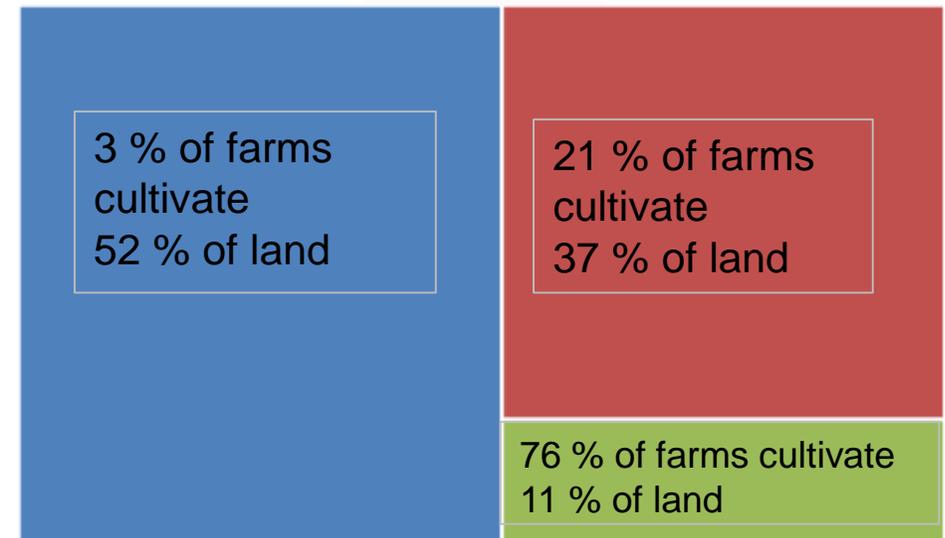
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"The project RURALIZATION has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement N° 817442."

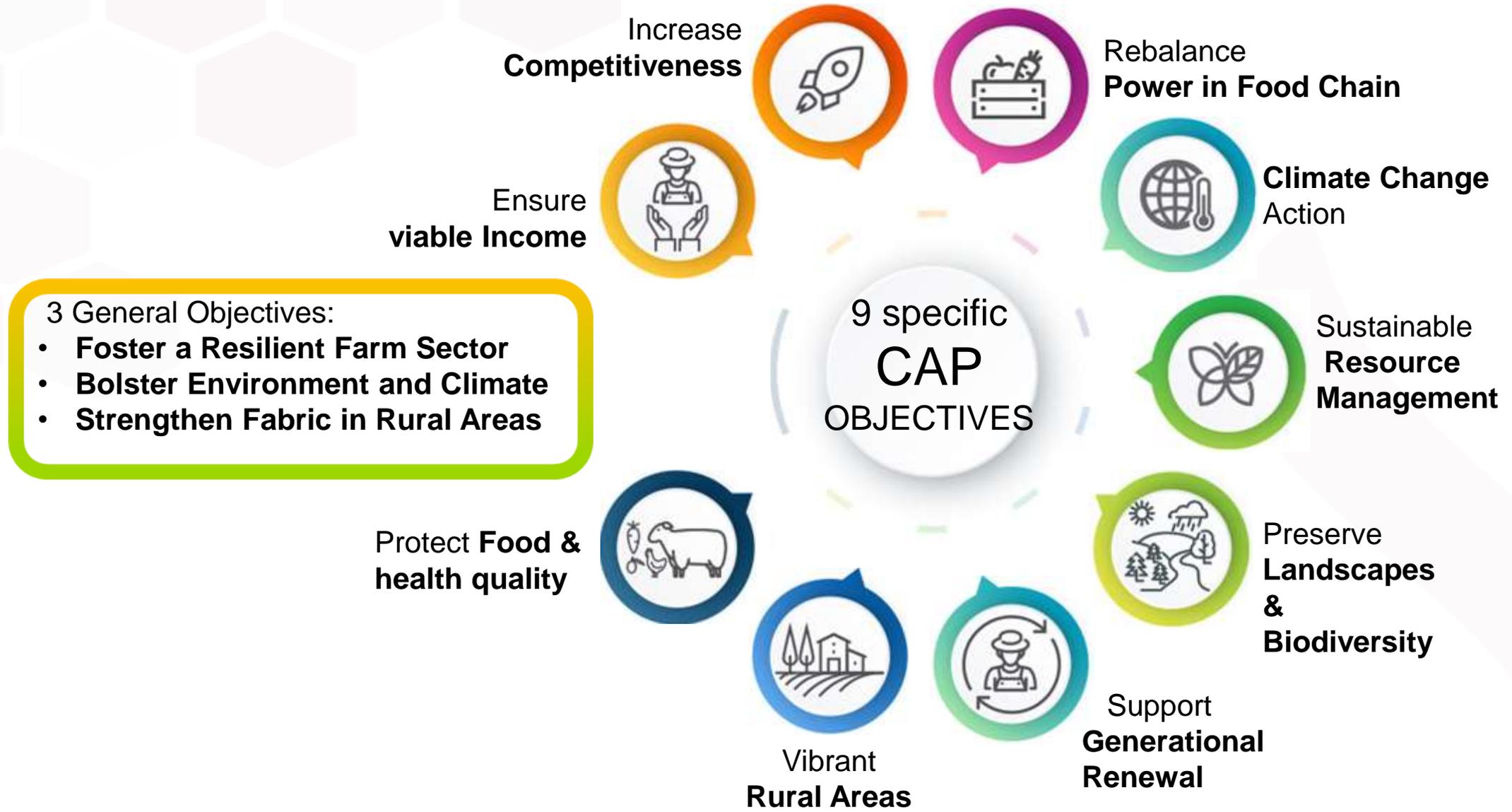
- ▣ Urbanisation and rural decline
- ▣ Troubled access of new generations to the farming sector.
 - ▣ Most farmers > 55 years
 - ▣ Few farmers < 35 years
 - ▣ The EU allocated € 9.6 billion 2007-2020 as specific aid to young farmers; Not very effective (ECA, 2017)
- ▣ Concentrated landownership

Eurostat indicators	Urban areas	Rural areas
Population growth 2014-2050	+12%	-7%
GDP per head (2014)	€ 34,179	€ 19,104



(EP, 2017)

Context 2: New Common Agricultural Policy (CAP)



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

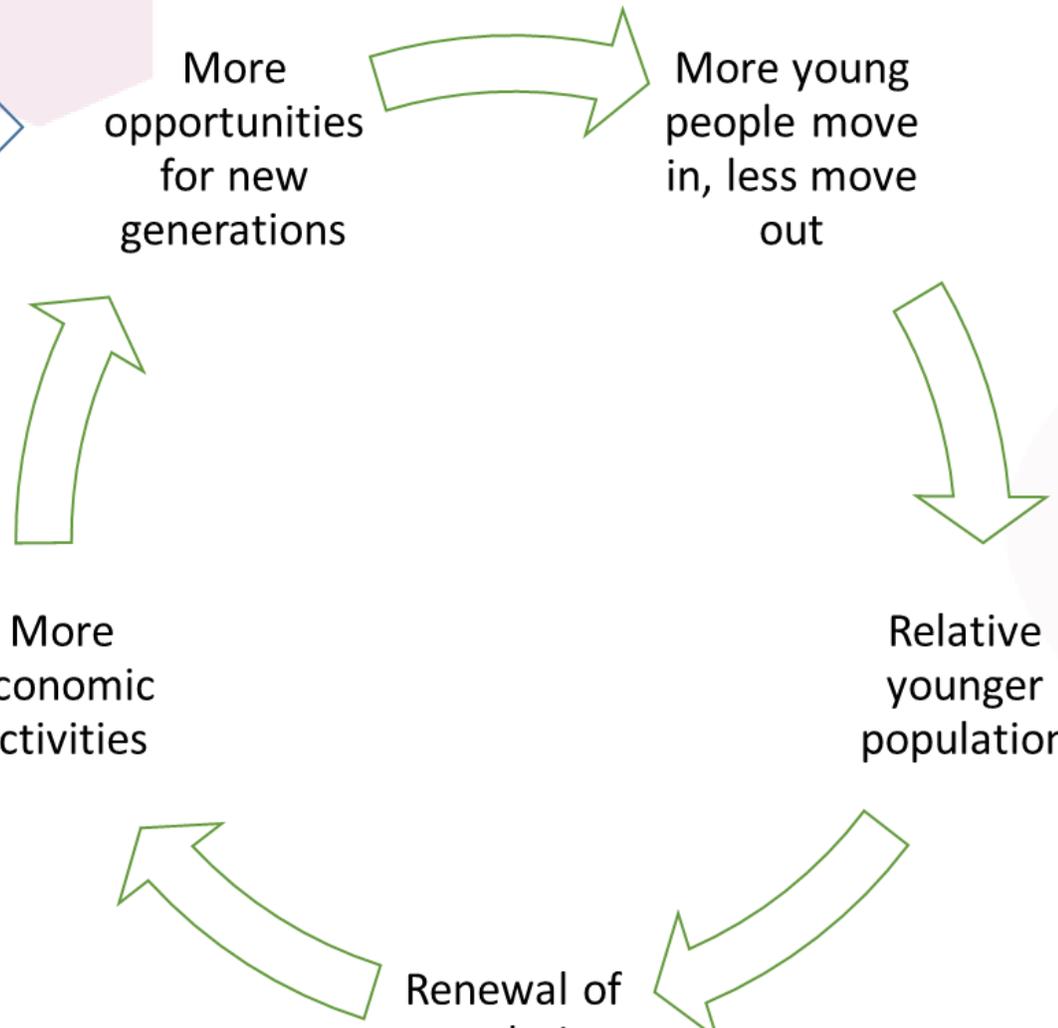
More opportunities for new generations

More young people move in, less move out

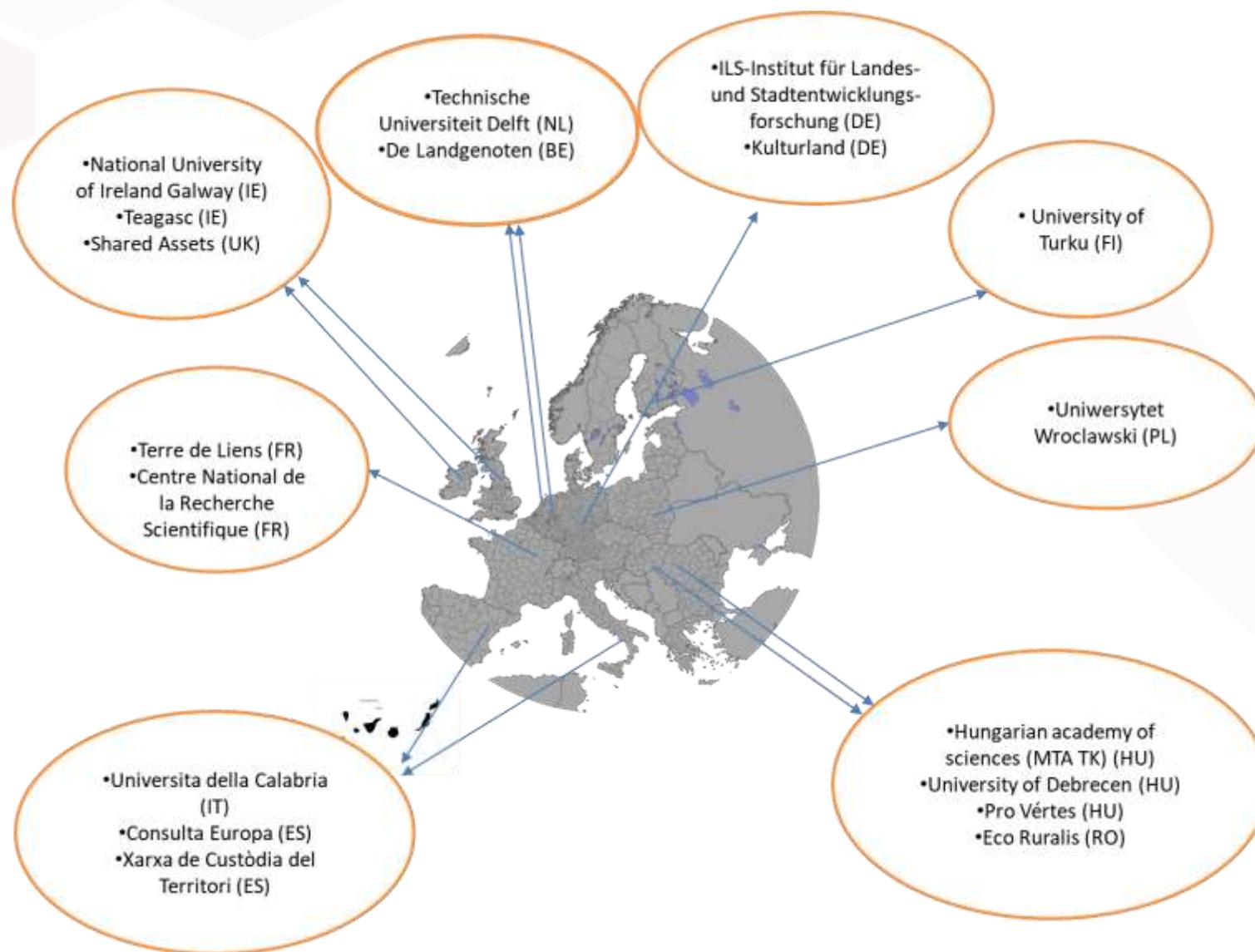
More economic activities

Relative younger population

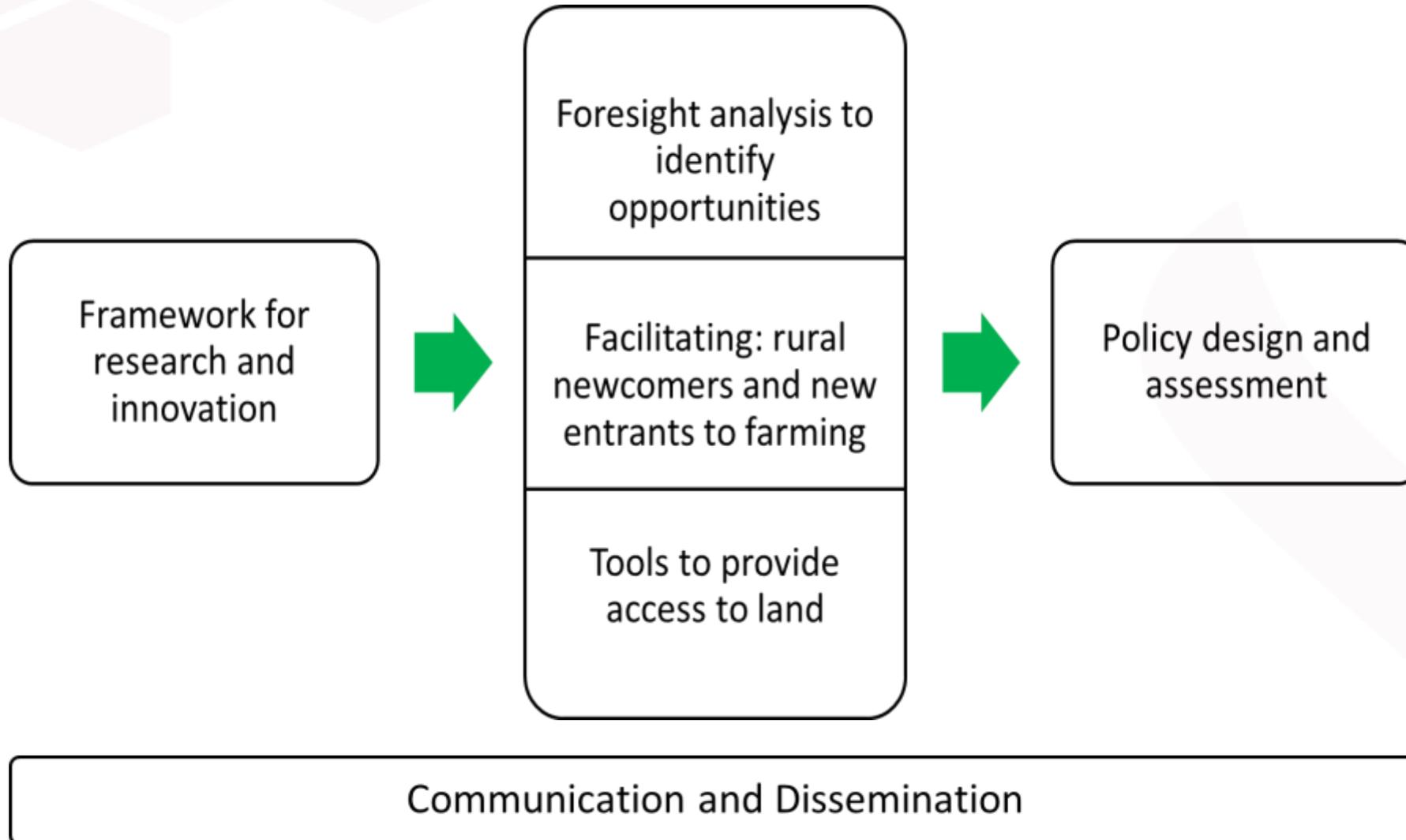
Renewal of population



Consortium



Work plan



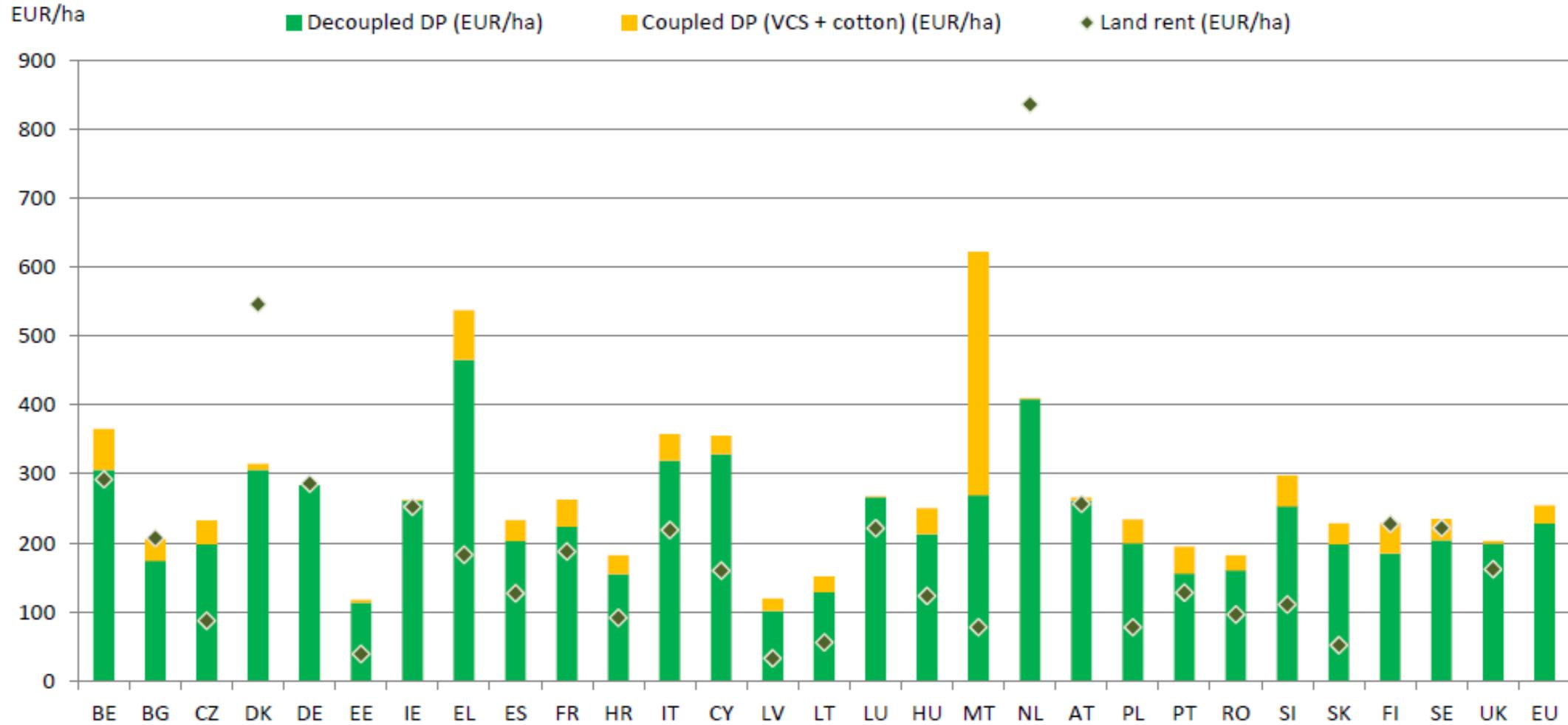
- ▣ General qualitative analysis of legal and policy arrangements
 - ▣ Reports on 28 EU Member states (incl. UK)
- ▣ Selective in depth qualitative analysis of legal and policy arrangements
 - ▣ 8 Case studies
- ▣ Quantitative analysis of land holdings and land market trends
 - ▣ EU wide regional data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

- ▣ 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

DP/ha and land rents by Member State



Sources: 2016 AGREX for DP, 2016 CATS for PEA and 2015 FADN for land rents.

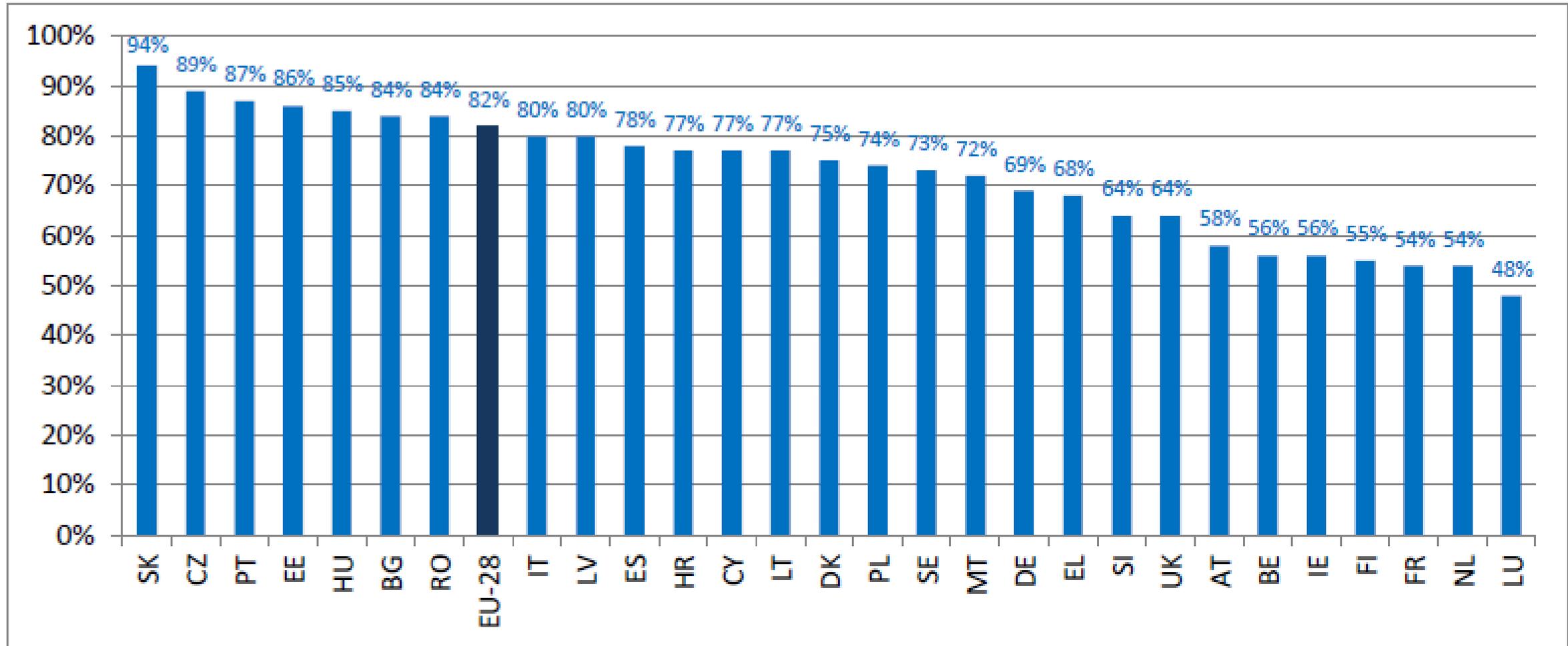
European Commission, 2018 (DP: direct payments; VCS: voluntary coupled support)

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)

- ▣ 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

Concentration of Decoupled Payments

Share of DP received by the 20% biggest beneficiaries by Member States, 2015



Freedoms of EU, Including:

- ▣ Free movement of capital
- ▣ Freedom of establishment

European Commission (2017) Commission Interpretative Communication on the Acquisition of Farmland and European Union Law

- ▣ 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)

Legitimate public interests (EC, 2017)



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.

Proportionality

- ❑ 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:
 - ❑ indirect discrimination on grounds of nationality
- ❑ Prohibition of sales to legal persons
- ❑ Targeting larger groups than is necessary

Emergent practices by intermediary



The image shows a screenshot of the AccesstoLand website. At the top left is a logo featuring a tree and a field with a person, next to the text "ACCESSTOLAND" and "A European network of grassroots organisations securing land for agroecological farming". Below this is a navigation bar with links for "WHO WE ARE", "ISSUES", "COUNTRIES", "POLICY", "RESOURCES", and "NEWS", along with a search bar and an "Ok" button. The main content area is divided into four vertical sections: "Preserving land", "Securing land for agroecology", "Supporting a new generation", and "Managing land as commons". To the right of these sections is a map of Europe with numerous location pins. Below the map are two article teasers. The first is titled "A new tool for promoting resilient, local food systems" and mentions the launch of an on-line tool by Terra de Liens, FNAB, and BASIC. The second is titled "Local land strategies: legal tools and levers" and mentions a grassroots gathering of 90 participants near Paris. At the bottom, there are two more links: "Access to land for new entrants: innovative ways to enter farming and secure land" and "Subscribe to our mailing list".

ACCESSTOLAND
A European network of grassroots organisations securing land for agroecological farming

WHO WE ARE | ISSUES | COUNTRIES | POLICY | RESOURCES | NEWS | Search | Ok

Preserving land
Securing land for agroecology
Supporting a new generation
Managing land as commons

A new tool for promoting resilient, local food systems
On 10 October 2019, Terra de Liens, the French Federation of Organic Farming (FNAB) and the activist think-tank BASIC launched a new on-line tool to promote resilient, local food systems. [READ MORE](#)

Local land strategies: legal tools and levers
September 2019 saw a major grassroots gathering of 90 participants from 17 European countries converge near Paris for 3 days of seminars on Local Land Strategies: legal tools and levers. [READ MORE](#)

Access to land for new entrants: innovative ways to enter farming and secure land

Subscribe to our mailing list

<https://www.accesstoland.eu/>

- ❑ 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



- ▣ Brady, M.V., J. Hristov, C. Sahrbacher, T. Söderberg and F. Wilhelmsson (2017) Is Passive Farming A Problem for Agriculture in the EU? , *Journal of Agricultural Economics* 68(3), 632-50
- ▣ Ciaian, P., d.A. Kancs and M. Espinosa (2017) The Impact of the 2013 CAP Reform on the Decoupled Payments' Capitalisation into Land Values, *Journal of Agricultural Economics*, DOI: 10.1111/1477-9552.12253
- ▣ Dwyer, J., E. Micha, K. Kubinakova, P. van Bunnem, B. Schuh, A. Maucorps and F. Mantino (2019) *Evaluation of the impact of the CAP on generational renewal, local development and jobs in rural areas*, European Commission: Directorate-General for Agriculture and Rural Development, Brussels, http://eprints.glos.ac.uk/7547/1/cap-gr-study-final-report_en.pdf (date accessed 15/01/2020).
- ▣ EC (2017) Commission Interpretative Communication on the Acquisition of Farmland and European Union Law, *Official Journal of the European Union* 60(C350), 5-20.
- ▣ EC (2018) Direct payments, DG Agriculture and Rural Development, Unit Farm Economics, https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/direct-payments_en.pdf (retrieved 11/02/2020)
- ▣ EC (2019) Future of the common agricultural policy, https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/future-cap_en
- ▣ ECA (2017) *EU support to young farmers should be better targeted to foster effective generational renewal*, European Court of Auditors, Luxembourg.
- ▣ EP (2017) European Parliament resolution of 27 April 2017 on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers (2016/2141(INI), P8_TA(2017)0197.
- ▣ EUROSTAT (2019a) Database, <http://ec.europa.eu/eurostat/data/database> (retrieved 27/11/2019).
- ▣ EUROSTAT (2019b) Statistics on rural areas in the EU, http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_rural_areas_in_the_EU (retrieved 15/01/2020).
- ▣ RURALIZATION: www.ruralization.eu