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## A RETROSPECT OF LAND MARKET LIBERALIZATION IN ROMANIA

### ABSTRACT

The paper describes the situation of land market in Romania in the transition period, insisting on legislative restrictions and on practical constraints that led to the slow development of a functional land market, using data from official sources and from a special survey dedicated to the latest evolutions and perceptions with regard to land issues.

**Key words:** land ownership, land reform, restrictions on land transactions.

**JEL Classification:** Q15.

### 1. INTRODUCTION: THE IMPORTANCE OF AGRICULTURAL LAND FOR ROMANIA

A summary picture of Romania's land resources, by land ownership, is given in Table 1.

*Table 1*

Statistical situation of land areas on December 31, 2005 (thousand ha)

Groups of owners	Total land areas	Agricultural land	Arable land
Total country	23839	14741	9420
– public ownership	6548	577	323
– private ownership	17040	14087	9053
– administrative territorial units	2795	1987	158
– legal entities	1389	965	842
– natural persons	12468	10823	7871
– foreign investors	37	34	28

*Source:* National Agency of Cadastre and Land Registration (ANCPI).

The division of owners by groups makes use of certain categories introduced after the collapse of the communist regime, which can generate confusion in the absence of additional explanations. Thus, the state ownership (managed by ministries) is divided into two distinct categories, namely: the private state ownership, which designates a category of land that could be alienated, unlike the public state ownership,

on which the state ownership right cannot be alienated. At the same time, a distinct category is represented by the land areas of the administrative-territorial units (managed by the county councils or town halls), which can also be in the public or private ownership of the respective units.

A further explanation with regard to the arable land into public ownership: out of the 323 thousand hectares, 53 thousand hectares belong to the administrative territorial units, and the remaining land to the ministries. Among these, the Ministry of Agriculture has 200 thousand hectares, mainly managed by the Agency of the State Domains (in reality, given into concession to private operators).

As regards the agricultural land areas of the administrative-territorial units, these mainly consist of pastures (1801 thousand hectares), representing the communal pastures, made available to the livestock farmers in the respective localities under different forms that are agreed at the level of town halls (the most common being the payment of an annual fee for each animal).

The land areas owned by the foreign investors refer only to the land belonging to the firms that benefited from the legislation on stimulating the direct investments (Government's Emergency Ordinance no. 92/1997). The firms with foreign capital that are registered as Romanian legal entities fall into the category of private ownership of legal entities, together with those with Romanian capital, as the law did not make any difference between them.

From the table it can be seen that three quarters of the agricultural land areas (73%) belonged to physical entities in 2005, which at that time could be only those with Romanian citizenship. In the case of arable land, the share was even higher (83%).

## 2. LAND RESTITUTION, LAND GIVEN INTO OWNERSHIP, PRIVATIZATION

The starting point of the evolutions in the field of land resources was the situation in the year 1989, which was the result of the radical transformation of agriculture in the communist period. Leaving the non-agricultural land apart, the situation of agricultural land utilization in 1989 is presented in relative terms in Table 2.

*Table 2*

Agricultural land by categories of use and ownership forms in 1989 (%)

	<b>Total agricultural land</b>	<b>Arable land</b>	<b>Pastures</b>	<b>Hay fields</b>	<b>Vineyards</b>	<b>Orchards</b>
Private producers' holdings	9.5	5.0	7.5	44.7	3.7	16.5
Agricultural production cooperatives	60.8	72.3	29.3	46.8	68.3	53.5
State farms	13.6	16.5	0.7	4.2	20.7	18.6
Other state units	16.1	6.2	62.5	4.3	7.3	11.4
Total	100.0	100.0	100.0	100.0	100.0	100.0

*Source:* processing of data from Romania's Statistical Yearbook, 1990.

At the moment when the communist regime collapsed, the largest part of Romania's agricultural land was used by the agricultural production cooperatives, organized according to the Soviet model, which had been created in the period 1949-1962, under the pressure of communist authorities, which had used the most diverse means for cooperativization, from persuasion to the use of force. A relatively small group of peasant households, mainly from the mountain areas, had not been the object of cooperativization (as a result, the high share of hayfields owned by these households). The state farms, initially created on the land areas confiscated in 1945<sup>1</sup> from the large agricultural land owners, which added to the land areas given into agricultural use as a result of large-scale land reclamation programs (reclamation of marshland), had mainly arable land of very good quality.

On a strictly formal basis, the land of the agricultural production cooperatives was considered as property of the cooperative members, although these did no longer have any real right upon the land; at the same time, the excessive centralization of decision-making in late 1980s could not stop the pressure from the part of former land owners to take back the land that they had contributed to the former cooperatives, after the collapse of the communist regime. Thus, the Parliament elected in 1990 legislated the dismantling of cooperative farms and the restitution of land to their members. The law that enabled this (Land Law no. 18/1991) also regulated some other aspects with regard to land ownership in Romania, taking into consideration the need to adjust to the new political realities. For example, one of the most important provisions of the new law established that the "land areas into private ownership, regardless of their titular, are and will remain into the civil circuit"; this provision invalidated the administrative restrictions that had practically made the land sale-purchase impossible in the communist period (land of any kind, not only agricultural land). At the same time, this law introduced the differentiation between the public domain (that can be of national or local interest) and the private domain of the state. Another interesting provision was the possibility to give land into ownership to people who had not contributed land to cooperatives in the past.

Technically speaking, land restitution to former owners or to their heirs, which represented the most important consequence of Law 18/1991, was defined as "ownership right reconstitution" in the law. In parallel to this action, "ownership right constitution" was also envisaged by this law, benefiting the cooperative members who had not contributed land to the cooperative, as well as some other categories of people, under certain conditions: victims of the Revolution of 1989 (1 ha, tax free), employees of the cooperative in the last three years (if they lived in the respective locality or they were about to settle into the locality), the staff from the communal public services (up to 0.5 ha); the law also provided that in the cases where agricultural land reserves exist, each family that settles down in the respective rural locality can receive land (up to 10 ha per family, the same limit being imposed to the land ownership right reconstitution beneficiaries).

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<sup>1</sup> The agrarian reform of 1945 was the first act legislated by the communist regime .

The limitation of the land ownership reconstitution to 10 ha (in arable equivalent) was a measure that continued the principles of the communist reform of 1945 (even though not being fully aware of this) and it is the main reason why the agricultural land restitution lasted more than one decade. As at the moment of the 1945 reform, the maximum legal limit of the agricultural land into ownership was 50 ha, there were enough families that contributed more than 10 ha of land to the cooperatives. From the reserve left after the incomplete restitution<sup>2</sup> of these land properties, agricultural land areas could be appropriated<sup>3</sup> to those ownership right constitution beneficiaries. It should be mentioned that there was also a minimum limit of restituted land property of 0.5 ha (if the beneficiary had contributed by a smaller land area he/she could get 0.5 ha at least). In the situation when the cooperative land was not enough for covering all the claims, a proportional diminution coefficient was applied to all the restituted land areas (except for those under 1 ha).

The application of Law no.18/1991 implicitly resulted in the dismantling of the largest part of the cooperative farms. Yet there were cases when the cooperative members decided on the joint operation of land. For this purpose, three months after the adoption of Law 18, Law no. 36/1991 was adopted on the legal agricultural associations and other association forms in agriculture. This law stipulated that the agricultural land owners can also operate their land under association forms, not only on individual basis. These associations could be simple associations (by verbal or written agreement, with no legal entity status) or under the form proposed by this law, namely legal agricultural associations, yet with no commercial character<sup>4</sup>. The possibility to organize such associations resulted in the establishment of several thousands of legal agricultural associations; by the end of 1999 there were 3573 such units that operated 1.4 million ha agricultural land. Besides these, there were also 6264 simple associations<sup>5</sup> (as non-legal entities) that operated 868 thousand ha.

The total area distributed into the possession of the 3.8 million beneficiaries<sup>6</sup> of Law 18/1991 was 9.3 million ha. 4.3 million ownership titles had to be issued. The procedure to issue these ownership titles was quite difficult and further delayed by the beneficiaries' discontent caused by the abuses of the commissions

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<sup>2</sup> The limitation to 10 ha of the restituted land areas can be also interpreted as nationalization (according to the communist model, with no compensation) of the land areas that exceeded this area. This abuse was to be corrected after about one decade, by Law no. 1/2000.

<sup>3</sup> The distribution of land areas to these beneficiaries was on a free of charge basis, for the first time in the history of the Romanian agrarian reforms.

<sup>4</sup> It is obvious that the joint operation could also take place by the establishment of commercial companies, according to Law 31/1990 on commercial companies.

<sup>5</sup> At the 2002 census and at the subsequent surveys of 2005 and 2007, these associations were not registered as such, but they were considered as holdings of the members; they are also registered as such in the control system of direct payments.

<sup>6</sup> According to certain estimations, one third of the land restitution law beneficiaries were living in towns and they did not intend to get involved in the farming activity. Many of these put their land at the disposal of the new association forms, i.e. the legal agricultural associations. In exchange for their land, they received cash or products, as they would receive later from any farm that leased in land.

established at the level of each commune and by the desire of most of them to get the land back on the former locations, which also presupposed a large number of parcels for each property. However, by the end of the year 2009, about 77% of the ownership titles were issued, corresponding to 85% of the land area that had to be restituted.

The land owners that opted for the joint operation of land received their ownership titles faster, yet the exact location of land had to be established at a later moment in the legal agricultural association. This situation created some problems later on, when some members wanted to leave the association to farm it on an individual basis or to sell it, and they did not know the exact location of the land; the same problems appeared when certain associations were dissolved.

A distinct category of Law 18 beneficiaries was represented by the so-called "shareholders". These could not get back their land in kind as at the moment when the Land Law was applied, the land was operated by the state farms (as a result of certain administrative measures from the communist period); as a result, they received shares at these units that remained into the state property. The shareholders were considered as land owners obliged to lease out their land, receiving a certain amount of products (or its equivalent in cash) in exchange. These forced shareholders were not satisfied with the limited ownership rights they acquired, and by the adoption of Land Lease Law no. 16/1994 they were offered the possibility to become "locators" (lessors) for a 5-year period; after this period, they could get back their land and use it at they wanted.

The change of the political regime at the end of 1996 brought about significant corrections to the agricultural land ownership regime. In the first place, the beneficiaries of the land restitution law could claim (1997) the integral restitution of land properties. By the modification of Land Law, in 1998 the shareholders were repossessed with the land areas they were entitled to. The Land Lease Law was also modified by eliminating certain constraining provisions. It is obvious that the most important event was to unblock the land market by the promulgation of Law 54/1998 on the legal circulation of land.

Later on, Law no. 1/2000 was adopted, on the ownership right reconstitution on the agricultural and forest land, claimed according to the provisions of Land Law no. 18/1991 and Law no. 169/1997. By this law, the ownership right was also reconstituted for the difference between the area of 10 ha per family (the limit provided for by the previous law) and the area effectively contributed to the cooperative (within the limit of 50 ha for each owner). In the case when the ownership right cannot be fully reconstituted, compensation is granted for the non-restituted area. As a result of this law, the total restituted area reached about 10.2 million hectares. On a cumulated basis, by January 2005 about 98.8% of the ownership titles had to be issued, for the 96% of the area to be restituted.

The last step to be made was the privatization of state farms. This took place at the end of the year 1999, by issuing a Government's Ordinance by which it was established that the assets of the state farms would be sold to private investors, and

the land will be given into concession to the new operators. By the year 2004 the privatization process was practically completed: out of the 739 farms that were initially in the portfolio of the Agency of State Domains (the body established by the same ordinance), slightly more than 1/3 had been privatized, while the remaining 2/3 were liquidated. Land concession (for 49 years in general) was generally successful, even though in some cases there were corruption suspicions, or there were cases of contract cancellation.

The year 2005 brought about the last corrections in the field of agricultural (and not only) land ownership before Romania's accession to the EU, so as to complete the land restitution chapter. Thus, by Law no. 247/2005 on the reform in ownership and justice, as well as certain related measures, Law 18/1991 and Law 1/2000 were modified and completed, new provisions were introduced on the legal circulation of land (with regard to land market liberalization), as well as the speeding up of trials related to land properties restitution. On this occasion, the agricultural life annuity scheme was also introduced, a system stimulating the agricultural areas concentration by old owners' land lease or sale.

### **3. AGRICULTURAL LAND TRANSACTIONS**

After the restrictions on the legal circulation of land in the communist period, in order to avoid an undesired evolution on the land market (sale of land at extremely low prices in an inflationary context and with asymmetry of information), one of the first measures of the new parliament was to forbid the alienation of land of any kind until the adoption of new regulation on land, according to Law no.9/1990 on the temporary ban on land alienation through acts between living persons. The respective provision was to be repealed by Law 18/1991.

#### **3.1. The period 1991–1997**

The legal circulation of land was regulated in the chapter with the same name from Law 18/1991. Of course, the provisions have in view the land areas into private ownership, about which the law stipulates that "they are and remain into the civil circuit". The land could be sold regardless of its area size, with the restriction that the property of the acquirer should not exceed 100 ha (arable equivalent) per family. In other words, the law did not enable the establishment of large properties, as it contravened to the approach assumed by the initiators to ensure access to the land resources for as many persons as possible.

The Romanian physical entities who did not have the domicile in Romania and the foreigners, be they physical or legal entities, could not acquire land into ownership by acts between living persons. If they were to inherit such land areas, they were obliged to alienate them at one year after the acquirement date. The law also had a relatively retroactive character, as it also obliged to land alienation the persons who had acquired land before the law was enforced.

The law also provided for a pre-emption right on the alienation of the agricultural land outside the built-up area of localities (extravilan agricultural land), which went in order to the co-owners and then to neighbors; this right was exercised through an agency (the Agency for Rural Development and Management) that had to be informed on the owner's intention to sell the land. Then the agency had to consult the pre-emption right titulars and if these did not make a decision within 30 days, the land could be sold freely.

However, the Agency for Rural development and Management was not established (the draft law submitted in 1991 remained under the Parliament debates until after the elections from 1996, when it was abandoned); this fact raised certain contradictory interpretations: certain lawyers (among which those from the Ministry of Agriculture) considered that the impossibility to exercise the pre-emption right made the sale impossible; other lawyers considered that the non-exercise of the pre-emption right, which made the alienation act annulable according to the law (yet not null) should not prevent the alienation of extravilan land areas. It is obvious that the extravilan agricultural land transactions were reduced and in most cases not registered legally (the sale-purchase acts were kept secret or the transactions were registered as donations).

The impossibility to exercise the pre-emption right in the case of foreigners and of the Romanians having their domicile abroad who became owners by inheritance resulted in the interpretation that these could not sell the inherited land in the one-year period provided by the law, hence they could keep it (here the lawyers of the Ministry did not agree). Another constraint in land transactions was the absence of the ownership title (the titles were issued with delay due to the difficult procedure). Here, the lawyers of the Ministry of Agriculture considered that the sale of land inside the built-up area of localities (intravilan land) (that was permitted by the law) was also possible before the receipt of the ownership title (only on the basis of the land repossession certificate issued by the County Commission for law application).

### **3.2. The period 1998–2005**

In the year 1996, in a new political context, of reforming the entire agricultural sector by the program (ASAL) supported by the World Bank, Law 54/ 1998 on the legal circulation of land was adopted, and the chapter from Law 18/1991 on this matter was repealed. The upper limit of a land property owned by a family increased to 200 ha. Unlike the old provisions, the new law made it possible for the Romanian citizens with the domicile abroad to acquire land in Romania, both on the basis of legal acts between living persons (sale-purchase, donations), as well as by inheritance. However, the restriction for the foreign physical or legal entities was maintained, both for acquiring land by legal acts between living persons as well as by inheritance. Yet, if the land areas were the object of foreign people's

investments, the provisions of the legislation on foreign investments were applied, which stipulated that any investor “can acquire any real rights on the movable and immovable goods” (Government’s Emergency Ordinance 92/1997). Certain lawyers’ interpretation on this provision was that the sale of land to the foreign investor during the commercial company operation represented a cession in reality.

The dilemma of respecting the pre-emption right, which was maintained having the co-owners, neighbours and lessees as titulars (with no pre-established order) was solved up by taking over the function of the non-established agency by the Local Council on the area of which the respective land was located. Thus, the seller had to register the offer, and if the pre-emption right was exercised by several titulars, he had the right to choose one of the offerers or to refuse all of them if the price was not convenient and to sell to another person. As it can be noticed, the pre-emption right is rather reduced to a publicity act of the offer. The provision proved to be useful as by it the local councils (town halls) could get information on the concluded transactions, and the Ministry of Agriculture (and later on the National Agency of Cadastre and Land Registration) could centralize this information, in order to know the evolutions on the land market. With all the reserves generated by the suspicions of under valuing the values of transactions, or by the fact that certain communes did not supply the required data, or that in certain cases the transactions took place in the absence of certified documents (on informal basis), the data collected in the period 1998–2005 represent the only official data on the land market in Romania.

According to these data, in the period 1998–2005, 308 thousand land sale-purchase contracts were registered in the extravilan area, which add to 29 thousand donation acts. The sold area totaled 513 thousand ha, larger areas being sold in three counties from the western part of the country (Timiș with 135 thousand ha, Arad with 50 thousand ha and Caraș-Severin with 24 thousand ha) and in a county from the eastern part of Romania (Constanța with 32 thousand ha). The areas sold each year and the average prices are presented in Table 3.

*Table 3*

Sale of extravilan land in the period 1999–2005

	1999	2000	2001	2002	2003	2004	2005
Area thousand ha	31.9	21.8	28.7	159.8	86.4	108.5	64.0
Average price EUR/ha	443	394	417	289	256	427	884

*Source:* processing of centralized data from the Ministry of Agriculture.

As it can be seen from Table 4, these data are different from the Eurostat data, although the primary data source is the same<sup>7</sup>.

<sup>7</sup> It is possible that the National Institute for Statistics operated certain corrections before sending the data to Eurostat.

Table 4

Agricultural land prices in Romania (Euro/ ha)

2000	2001	2002	2003	2004	2005
351	308	278	237	284	879

Source: Eurostat.

The average prices of extravilan land by counties in 2005 feature high variation, from one quarter of the country's average price, to more than 8 times this price. The extreme maximum values were found only in two counties (Ilfov și Prahova) in 2005, being most probably the result of buying land areas in the proximity of towns (Ilfov is located round Bucharest, the capital) with the purpose of subsequently changing the category of use from agricultural land to land for building houses and offices. In the county Timiș, for example, the agricultural land price was by 20% above the national average in 2005.

### 3.3. The period 2006–2009

Law no. 247/2005 on the reform in ownership and justice, which was adopted by assuming the Government's responsibility and had as main objective the correction of certain anachronic situations from different legislative acts (the law has 17 chapters, named titles) repealed Law 54/1998, replacing it with the provisions from Title X, named Legal circulation of land.

The new provisions simplify the legislation in this field, approaching the land transactions on a unitary basis, regardless of their destination (agricultural or forest land<sup>8</sup>), if they have or do not have buildings on them, if they are located in the extravilan or intravilan area. At the same time, the pre-emption right is completely eliminated. This had as an indirect result the fact that the town halls (local councils) were no longer obliged to keep the evidence of transactions with extravilan agricultural land areas, and the Ministry of Agriculture could no longer centralize the data on the land market.<sup>9</sup>

As regards the land ownership in the case of the foreign natural persons and legal entities, the law stipulated that these can acquire the ownership right under the "conditions provided by the special law" (Art. 3).

In the attempt to contribute to solving up the problem of the fragmentation of properties in Romania, the law has one provision that exempts from paying the stamp fee for the land alienation made for the purpose of consolidating the parcels and plots, as well as for the alienations made by the persons entitled to obtain the agricultural life annuity<sup>10</sup>; it also provides for the possibility to alienate these land

<sup>8</sup> The legal circulation of forest land was regulated by Government's Emergency Ordinance 226/2000.

<sup>9</sup> The National Agency of Cadastre and Land Registration did not get involved in this activity either, although it would have had the necessary human and material resources, so that at present there are no official information on the land transactions.

<sup>10</sup> The agricultural life annuity scheme was introduced by Title XI of Law 247/2005.

areas on the basis of drawings on which the ownership titles were based (and not on the basis of the cadastral documentations made by the authorized persons).

### **3.4. The land market after accession – the results of a brief investigation**

In the absence of official data on the land transactions after 2005, in October 2009 we conducted a mini-survey on the land market situation at the national level, with the help of the network of experts from a company supplying agricultural inputs. The company has national coverage, having a network of representatives in almost all the counties of Romania. These specialists, who have direct contact with the medium and large farmers, answered a questionnaire on the recent evolutions of the land and land lease market in their interest area; if possible they also applied the same questionnaire to a farmer from their area.

48 questionnaires were received from 30 counties (Romania has 42 counties), from all the eight development regions. Out of these, 18 belong to the farmer respondents. The answers to the main questions are presented below:

- The frequency of transactions. 35 respondents know about more than 10 transactions in the area of their interest, in the last three years. 13 respondents know about less than 10.

- The average price in 2009. The prices were in RON or in EURO (or in both forms), as they were negotiated on each local market. After the elimination of 5 values from each data set (those over 2000 RON, over 5000 Euro respectively), the average price was 5378 RON/ha (i.e. 1265 Euro/ha at an exchange rate of 4.25 RON/Euro). The average price expressed directly in Euro was 1497 Euro/ha.

- Recent examples. 12 respondents do not have data on a concrete transaction in 2009 or 2008, while the other 36 have, and the average price paid in these transactions was 1074 Euro/ha.

- The typical seller. Rather old (32 answers, compared to 11 for young), from the locality and from outside the locality (21 and 20 answers respectively).

- Typical buyer. Not very well designed, but the presence of foreigners is important: large farmer (15) and medium (18), individual (14) and company (20), Romanian (26) and foreigner (12).

- The evolution of prices after accession. 37 answers consider that price increased from an average of 1000 Euro/ha in 2006 to 1742 Euro/ha in 2008.

- The foreigners' interest in buying land. Half of the respondents knew about foreigners wanting to buy land (25), while the other half did not know (23). The foreigners buy (20) in general several hundreds of hectares, while others only lease in land.

- The perception on the transitory restriction. Most respondents (29) did not hear about the restriction applied to foreigners to buy land for 7 years from the accession, while 16 respondents knew about this restriction.

- The informal land transfer arrangements. 15 respondents knew about such arrangements (pre-contracts, contracts not legalized at the notary's office), but these do not necessarily refer to foreigners.

– Land lease by foreigners. It is a common phenomenon: 30 respondents know such cases, the average leased in area being 1200 ha. All the respondents also know situations when the Romanians lease in land, generally larger areas (3600 ha).

– Rent payment. In most cases (42) this is made in kind, but also in cash (24) or both in kind and in cash. The average payment is 654 kg wheat/ha, while the payment in cash is 93 Euro/ha (paid in RON).

– The farmers. Out of the 18 farmer respondents, 13 have more than 10 ha, all of them having leased in land (524 ha on the average), and 11 also have land into ownership (98 ha on the average). Out of the latter, 6 had bought land in the last three years (24 ha on the average).

### 3.5. Land lease

Leasing in land is the main modality to establish large-sized holdings (of hundreds and even thousands of hectares). Land lease is regulated by Land Lease Law no.16/1994, modified several times beginning with 1998, when the most significant changes were operated (by Law 65/1998 for the modification and completion of Land Lease Law). At that moment, the provision of the 5-year minimum land lease period was eliminated; the period was to be established by the parties, by the land lease contract.

Although the land lease contracts are submitted at the local councils, which would give the possibility of their centralization, the Ministry of Agriculture did not initiate any approach in this respect, so that there are no official land lease data at national level. The size of the land lease phenomenon is reflected only in the agricultural census (in the farm structure surveys) or in the data from the Farm Accountancy Data Network (FADN).

Agricultural Life Annuity is a farm's consolidation stimulation program consisting of financing the owners over 62 to renounce the land through lease or sale (each owner receive 50 Euro for each leased ha and 100 Euro for each sold ha, with a maximum limit of 10 ha. Started in July 2005, the program had 26 thousands beneficiaries in July 2007 (with 19 thou ha sold and 115 thou ha leased out), and 67 thousands beneficiaries in July 2009.

## 4. INSTEAD OF CONCLUSION: THE LAST RESTRICTION

In the Act of Accession, signed and published in June 2005, with regard to the free circulation of capital, it is stipulated that "Romania can maintain, for seven years from the accession date, the restrictions established by its legislation, existing at the moment of signing the accession treaty, on the acquirement of ownership on agricultural land, forests and forestland by the ressortissants of EU Member States". It is also stipulated in the same act that "the provisions of the previous paragraph are not applied to the farmers who carry out independent activities, who are the ressortissants of another Member State, and who wish to settle down and have their residence in Romania".

The Law no. 312/2005 on the acquirement of the private land ownership right by foreign citizens and stateless persons, as well as by foreign legal entities, adopted and published in November 2005, which completes (by special law) the provisions on the legal circulation of land from Law 247/2005, take over part of the restrictions existing in the old Law 54/1998, in the sense that the restrictions are equally applied to the foreign citizens and foreign legal entities, to the extent they do not contravene the accession treaty. That is, the citizens and legal entities from the EU Member States benefit from the same rights as the Romanian citizens and legal entities, but at 7 years after the accession date. As it is stipulated in the Act of Accession, the respective interdiction is not applied to the farmers who carry out independent activities (namely the physical entities) in the Member States and who establish their residence in Romania, hence these can buy agricultural land immediately after the accession, but they cannot change its destination during the transition period. They have to make proof of the farmer quality with documents issued by the Member State.

Another matter regulated by this law is that of land ownership inheritance by the foreign citizens: this becomes possible for all the foreign citizens. So far, Law 54/1998 (repealed in July 2005), although interdicted the land ownership right for the foreign citizens, it did not oblige them to alienate the inherited land within a certain period of time (as Law 18/1991 initially stipulated). That is why the local councils registered these cases separately, and the Ministry of Agriculture centralized them: in the period June 1998 – December 2005 there were 4309 inheritance cases, totaling 24 thousand ha agricultural land in the extravilan area. The most cases were found in the counties Sibiu (half of the number of cases), Timiș, Arad, Brașov, probably because many German nationals from these counties had to give up the Romanian citizenship after they left Romania.

Law 312/2005 had to be enforced (and it was enforced) on the date Romania joined the European Union (the accession date was quite uncertain at that time, it was not sure that it would be January 1st 2007). As Law 54/1998, which stipulated the interdictions, had been repealed, the period July 2005 – December 2006 is a period when the application of interdictions could have been contested. Yet the restrictions were effective.

However, similarly to the previous period, the foreigners who established a firm in Romania could buy land on the name of the respective firm, as Romanian legal entities, regardless of the capital origin.

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