Market and non-market trade in land during the period of validity of the amended act on shaping the agricultural system in Poland

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Abstract


Agricultural land is, due to its characteristics, a specific resource whose importance goes beyond the function of an agricultural production factor. Rational management of the potential is an essential element in shaping the competitiveness of agriculture and securing food security. It is related to the flow of land to farms that offer opportunities for its optimal use. In the case of agricultural land, its economic allocation is modified by the state, which determines the rules for trading agricultural land. The aim of the article is to discuss changes in agricultural land trading in Poland, after the introduction of legal regulations in 2016 that significantly limit the freedom to change agricultural land ownership rights. Using the data of Statistics Poland, the Ministry of Justice and institutions entrusted by the legislator with the exercise of ownership rights and other rights in rem in relation to state property in agriculture and control functions in private trade, changes in agricultural land trade were analyzed. The scale of the transfer of ownership and use rights as well as prices and the amount of lease rate were analyzed.

Keywords: market and non-market turnover of agricultural land; land price; lease rate.

Introduction

The progressing liberalization of economic relations is increasingly noticeable also in agriculture. For this reason, meeting the growing competition, which is increasingly shaped by global conditions, in the case of farms in Poland should be associated with the improvement of their competitive capacity, mainly in terms of resources. The fulfillment of the desideratum is closely related to the dynamization of the transformation of the fragmented agrarian structure, which is the basic barrier to improving the competitive potential of the sector. The situation in agricultural land trade, primarily of a market nature, is also among the conditions affecting changes in the number of farms with different production potential (Sikorska, 2013).

The functioning of trade in agricultural land is the result of the impact of a number of economic, political, historical and even cultural factors. Their derivatives are legal solutions being the result of the special interest of the current legislator in agricultural land trading. It is due to the specific nature of the property, which is agricultural land and its decisive role in ensuring food security for citizens.

Significant state interference in ownership changes of agricultural real estate, especially in private market transactions is a feature of the legal regulations in force since April 30, 2016, specifying the rules for the acquisition of agricultural real estate (purchase and sale, inheritance, donation, etc.).

Institutional control over agricultural real estate trading was exercised by the Agricultural Property Agency, and by the National Support Center for Agriculture since September 2017.
In Poland, the following forms of agricultural land trading prevail:

1. transfer of ownership rights to agricultural real estate, including:
   - free transfer of ownership – which includes donations, inheritances, annuity contracts, transfer of land to the State Treasury (SP) in connection with benefits under the Agricultural Social Insurance Fund – therefore it is a non-market trade, i.e., not equivalent
   - transfer of ownership for a fee, i.e., market trading, including purchase and sale transactions of agricultural land, which the price is related to as the equivalent of the ownership right (perpetual usufruct),
2. transfer of rights to use, i.e., lease, market turnover, i.e. equivalent turnover (Pyrgies, 2018).

Guided by the criterion of the type of entities participating in the transfer of land ownership, the following transactions can be distinguished:

- between natural persons – most often farmers, hence they are referred to as neighborly trade;
- with the participation of legal persons – most often it concerns trading in land from the Agricultural Property Stock of the State Treasury, i.e., with the participation of entities entrusted by the State Treasury with the task of managing the property of the Agricultural Property Stock of the State Treasury.

Separating the segments of the private and state market is a consequence of the legal conditions shaping the trade in agricultural land. Despite statutory restrictions on the functioning of the agricultural land market, it can be considered that it is generally based on supply-demand relations. Trading in agricultural land with the participation of the public sector consists mainly of transactions involving State Treasury real estate, which are carried out in non-tender and tender sales.

### Material and Methods

The aim of the study is to assess changes in the transfer of ownership rights and rights to use agricultural land during the period of validity of the amended act on shaping the agricultural system, i.e. in 2016–2022, as compared to 2010-2015. It should be considered both in relation to the intensity and forms of changes in land rights, as well as the prices of the resource. This approach was the introduction of revolutionary statutory changes in agricultural land trading in 2016.

The study was carried out using the mammography method, using data mainly from secondary sources, in particular from materials and publications of Statistics Poland, Agricultural Property Agency, National Support Center for Agriculture, Ministry of Justice, as well as from the literature of the subject.

### Results and Discussion

**Dissemination of trading in agricultural land in the form of purchase and sale**

The introduction of administrative standards limiting the freedom to trade in agricultural land and suspending the sale of land from the Agricultural Property Stock of the State Treasury in April 2016 resulted in a three-year annual decrease in the number of purchase and sale transactions of agricultural real estate (Table 1). The trend continued until 2019, when for the first time there was a slight increase (by 5.4%) of agreements for the sale of agricultural land compared to the previous year. In 2020, as compared to the previous year, the increase was slightly higher and amounted to 8.8%, and in the next period the increase was much higher and amounted to 21.9%. As a consequence, in 2021 the number of such transactions amounting to 76,675 was higher (by 9.9%) than in 2019. However, it was lower (by 7.8–21.0%) than in individual years of the 2010–2015 period.

The revival of ownership changes in agricultural land was mainly a consequence of the activation of the inter-neighborly market. The number of agricultural property purchase and sale transactions concluded in a given year was related to the general economic situation (especially on the non-agricultural labor market) and its impact on agriculture. The legal changes introduced in 2019 also had a certain impact, which increased (from 0.3 ha to 1.0 ha of agricultural land) the area limit for trade in agricultural land without statutory restrictions, and the growing demand for small-area land properties created by people who are not farmers and want to ensure a friendly place of residence for themselves. At the same time, the pandemic made us aware of the need to keep the farm as a material security for the user and their family in the event of job loss, which resulted in postponing the decision to sell land.

In a situation of an increasingly pronounced economic slowdown, in 2022, as compared to the previous year, a decrease in the scale of land trade was recorded. The number of agricultural land purchase and sale transactions concluded at
that time amounted to 63.3 thousand, it was by 17.4% lower than in the previous year. In the following year, a decline in agricultural land turnover should be expected. It will be caused by awaiting attitudes on the part of potential land sellers and agricultural producers, potential buyers. Such behavior should be mainly associated with the economic effects of the war in Ukraine and the uncertainty of how the crisis will develop and how quickly it will be overcome. Farmers will continue to refrain from investing in land.

Invariably, the intensity of the market transfer of ownership of agricultural land is shaped by private trade, (mainly between neighbors), which is the dominant, despite fluctuations, and strengthening segment in transactions of purchase and the sale of agricultural real estate (Figure 1).

In 2021, the number of transactions on the inter-neighborly market accounted for 93.6% of the total number of agricultural land purchase and sale agreements, and this share was relatively stable throughout the period after 2016, but significantly higher than in previous years.3

In 2021, the share of sales agreements of agricultural land with the participation of all legal persons was 6.4%, of which transactions involving land from the State Property Stock accounted for 5.1%. In 2022, the share of treasury agricultural land purchase and sale contracts in the total number of market ownership changes was slightly higher and amounted to 5.5%.

Table 1. Market turnover of agricultural land in 2010–2022

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of market transactions</th>
<th>Share of market transactions (100 = total number of transactions)</th>
</tr>
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<tr>
<td></td>
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<td>Inter-neighborhood</td>
</tr>
<tr>
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</tr>
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<td>2012</td>
<td>88 359</td>
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</tr>
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<td>91 082</td>
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</tr>
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<td>84 423</td>
<td>70 502</td>
</tr>
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<td>2015</td>
<td>92 757</td>
<td>79 203</td>
</tr>
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</tr>
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<td>2019</td>
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</tr>
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<td>2021</td>
<td>76 675</td>
<td>71 743</td>
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<tr>
<td>2022</td>
<td>63 318</td>
<td>No data</td>
</tr>
</tbody>
</table>

Source: own study based on unpublished data from the Statistics Department of the Ministry of Justice and reports of the Agricultural Property Agency (2011–2017), the National Support Center for Agriculture (2018–2023) and Statistics Poland (2023)

The situation is justified by the ownership structure of agricultural land in Poland, more than 93% of agricultural land is owned by individual farmers. Moreover, the area of treasury land sold is systematically decreasing. By the end of 2022, 2,626.2 thousand ha of agricultural land, and in 2022 alone, slightly more than 3.6 thousand hectares were sold from the Agricultural Property Stock of the State Treasury (including 3.1 thousand ha – sold to natural persons).

Fig. 1. Structure (%) of agricultural land purchase and sale transactions by entities


3 In 2010–2015, the share of inter-neighborly transactions in the total number of purchase and sale agreements for agricultural real estate was at the level of 82.2–85.4%.
No changes in the segmentation of the land market should be expected in the next period. It is also justified by the main form of distributing the land of the Property Stock of the State Treasury adopted by the legislator, which is the lease of small and systematically decreasing undeveloped resources of treasury land.⁴

**Changes in agricultural land prices**

In the recent period, the slight revival observed in the agricultural land market was also reflected in a relatively small increase in prices (Figure 2). It was a consequence of the permanent supply-demand imbalance on the agricultural land market. On the other hand, there were differences in the growth dynamics of agricultural land prices, they were mainly related to macroeconomic conditions and the impact of legal regulations on market changes in agricultural land ownership rights in private trade and with the share of treasury land.

In 2022, the average price of agricultural land in private trade was almost PLN 12.7 thousand euro (Chart 2). The almost 16.0% increase in prices recorded in 2022, as compared to the previous year was relatively high.⁵ Since the introduction of significant restrictions on agricultural land trade, the average annual increase has ranged from 2.0–7.4%, and land prices even fell in 2019 (by 2.3%), as compared to the previous year, it was a consequence of exchange differences.⁶

Despite undulations, the upward trend was also noticeable in the sale prices of treasury land. In 2022, the price of 1 ha of land from the Stock of the State Treasury of PLN 9.3 thousand euro was slightly (by 1.3%) higher than in the previous year. Thus, it was another increase in the sale prices of land in the Property Stock, after a period of its decline recorded in 2017 and 2018 (Chart 2). In the period 2019–2021, the sale price of agricultural land in the Property Stock, as compared to the previous year ranged from 9.8% in 2020 to 16.5% in 2019.

The comparison of changes in the prices of private and treasury land shows that the growth dynamics of land prices in private trade was higher in the private segment. In 2022, the sale price of land in private trade was by 39.1% higher than in 2016, and by 180.6% when compared to 2010. Analogous differences in land prices of the Property Stock amounted to 25.3 and 142.4%, respectively.

The comparison of the sale prices of private land and the Property Stock shows that treasury land was invariably cheaper than on the inter-neighbourly market. However, after a period of growth or stagnation of the differences, in 2018-2021 it clearly decreased (from 68.1 to 19.3%), and in 2022 it increased again. As a consequence, the relationship between prices of agricultural land recorded on the private market and with the share of treasury land in 2010 and 2022 intensified and amounted to 18.0 and 36.7%, respectively.

It was due to the legal regulations introduced in April 2016 (they significantly narrowed the circle of potential buyers) and the difficult economic situation, which resulted in a significant decrease in farmers’ willingness to purchase land. In addition, the Stock sold mainly land which, due to its location and features of the property, could not be leased.

**Lease of agricultural land**

On a general scale, lease is the oldest and most common market form of acquiring agricultural land (Lichorowicz, 1986). Currently, farming based on land lease is widespread in countries where, due to historical conditions, large land estates have been preserved, and successive heirs did not combine their professional activity with agricultural real estate. In the countries of the European Union (EU), lease is also the legal basis for the organization of many farms.⁷

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⁴ At the end of 2022, the area of land of the Property Stock of the State Treasury without qualifications for the method of allocation was approx. 166.6 thousand ha (the National Support Center for Agriculture, 2023) and it was by 6.8% higher than at the end of 2021.

⁵ Dynamics of changes in 2022 was significantly lower than before 2016. For comparison, the price growth rate between 2014 and 2015, the price of land in private trade increased by 19.4%, and in the previous period by 23.0%.

⁶ Land prices expressed in PLN recorded a persistent upward trend (Karwat-Woźniak, Buks, 2023).

⁷ In Germany, the share of leased land in the total agricultural
especially in countries where agricultural land prices have been very high for many years (Lichorowicz, 2010).

The lease of agricultural land also plays a significant role in creating the area structure in post-communist countries. The scale of impact in individual countries was conditioned by the degree of socialization of agricultural land and the model of their privatization used, as well as technical and economic circumstances of the process assumed by individual governments. In countries with share re-privatization of agricultural property, beneficiaries usually obtained compensation or leased their property, usually small plots of land, to a single lessee, most often with legal personality. As a consequence, very large-area farms were created, they leased land, even from several dozen owners (Sadowski, 2007).

A different situation characterized Polish agriculture, where even before the transformation individual farms based on family ownership dominated. For this reason, until recently, leases were not very popular (Sikorska, 2018), even though the efficiency of farming on leased land is comparable to the effectiveness of farming on own land (Mioduszewski, 2020). In addition, the poor spread of permanent lease was caused by the nature of lease agreements, they were usually customary (verbal) and concluded for short periods, even for 1–2 years. Due to the productive function of lease in agriculture, the durability of the relationship is of particular importance, as stable and long-term use of leased land by farmers becomes a necessity, it has positive effects both in micro- and macroeconomic terms (Marks-Bielska, 2020).

The situation regarding the lease of agricultural land has gradually changed along with the political transformation and the development of land from the Agricultural Property Stock of the State Treasury. Pursuant to the legislation in force, there was no general re-privatization of agricultural real estate, and the land taken over by the State Treasury was privatized on market terms. When leasing agricultural real estate from the Agricultural Property Stock of the State Treasury, designated procedures were in force, the agreements were in writing, and the terms of settlements and the period of use of agricultural land were strictly defined. Thus, the lease market in Poland was initiated and put in order by the privatization of the land of the Agricultural Property Stock since 2016.

As at December 31, 2022, slightly more than 1,069.5 thousand ha of State Treasury agricultural land was leased. However, the annual supply of treasury land is currently relatively small, but clearly greater than in 2010–2015, when the dominant form of treasury land distribution was its sale. In individual years of the period 2016–2022, new leases concerned relatively small, from 59,000 to 36,000 ha of agricultural land, while in 2010–2015 it was from 17 thousand ha up to 37 thousand ha.

Due to the lack of monitoring of inter-neighborly leases, their scale can be inferred from empirical research. Research conducted by the IAFE-NRI shows that in 2020 almost 1/3 of individual farms leased agricultural land, and the share of leased land in the total area of land used by individual farmers was approx. 1/5 (Karwat-Woźniak, Buks, 2022), and the estimated area of inter-neighborly leases was approx. 1.7–1.8 million ha (Karwat-Woźniak, Buks, 2023).

**Lease rates**

The amount of a lease rate was systematically increasing. The tendencies are visible both on the market of private leases and leases with the share of agricultural land of the Agricultural Property Stock (Figure 3).

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Land in use is more than 62% (with over 91% in the eastern Länder), in Belgium the area of leased land is over 67% of the total agricultural land, in France over 60%, in Luxembourg over 52% – (Iwanicka, 2020).
In 2022, the average rate in private transactions was EUR 305/1 ha, and EUR 331 in treasury land, while in 2021 the corresponding values were EUR 268 and EUR 243, respectively. Thus, over the past year, the rate on the inter-neighborly market increased by 13.8%, and by 36.2% on the treasury land market. As compared to the rate in 2016, the rate of private and treasury land increased by 44.5% and 77.0%, respectively, and as compared to the rate in 2010, the corresponding increase amounted to 179.8% and 363.7%, respectively.

Non-market trade in agricultural land and its forms

Non-market ownership changes are of particular importance in Polish agriculture, dominated by family farms. This situation results in the fact that most agricultural properties are taken over within the family and include donations, inheritances and family divisions as well as provisions of life annuity contracts. As a consequence, the relationship between market and non-market land turnover has a fundamental impact on the pace of agrarian transformation. Unlike land purchase and sale transactions, non-market trade, taking place mainly within the family, has a much smaller impact on the scale of concentration in agriculture (Sikorska, 2013). However, in the current conditions (especially legal conditions and unstable economic conditions), non-market trade is an important segment of ownership changes and may have a greater impact on the processes of changes in the area structure.

Based on the analysis of the available data, it can be concluded that the changes introduced in 2016 to the act on shaping the agricultural system also affected the non-market trade in agricultural land. After the record-breaking 2016 in terms of the total number of non-equivalent transfers of ownership of agricultural real estate, in subsequent years the number of such contracts varied greatly. However, it is consistently lower than in 2016 (Table 2).

In total, approx. 68.1 thousand notarial agreements for non-market transfer of ownership rights were concluded in 2021. The scale was by 17.4% higher than in the previous year and by 4.6–19.2% higher than in individual years for 2017–2020. At the same time, the scale was by 10.8% lower than in 2016, when the largest number of such transactions was recorded in the second decade of the 21st century, and by 3.8% higher than in 2010.

From the perspective of area changes, the relationship between market and non-market forms of agricultural land trading mainly resulted from the influence of legal regulations. Their interference in non-market trade was much smaller than in market trade. For this reason, the years 2016–2017 were characterized by a significant increase in the share of non-market transactions in the total

Fig. 3. The amount of lease rate for newly concluded leases of private agricultural land and the Agricultural Property Stock (EUR/ha)

Source: developed on the basis of unpublished data of Statistics Office, the Agricultural Property Agency (2011, 2017) and the National Support Center for Agriculture (2018, 2023) and the average euro exchange rate for the year according to the National Bank of Poland

The lower dynamics of rate growth in the private market is due, among others, to their decrease (by 24.2%) between 2019 and 2020. The price of wheat, which has recently increased significantly, has a great influence on the amount of lease rate for treasury land. What is more, agricultural lands of the Property Stock are located in areas with a relatively large concentration of market-oriented farms. For the entities, coping with the growing competition is associated with the dynamization of the processes of agricultural production potential concentration, especially for land. The conditions resulted in an increase in demand for agricultural land, which translated into a dynamic increase in rental prices.

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9 According to the data of Statistics Poland, the national average of wheat purchase prices in the first half of 2022 was by 52.6% higher than in the second half of 2021.
number of contracts transferring ownership of agricultural property. The easing of the scope of interference with the free trade in agricultural land resulted in the fact that non-market trade began to give way to market transactions, even though it did not reach the level from the period when the legislation on agricultural land trade in Poland was not too strict. It should be expected that the process will continue, as market transactions have a stronger impact on transformations in the area structure than non-market transactions.

The generic structure of non-market trade in agricultural land is relatively stable. The most significant position was held by land acquisitions as part of a donation, and their share was at the level of approx. 80–82%. Acquisitions of agricultural real estate in the form of inheritances and family divisions accounted for a much smaller share (11–12%). There were also cases of voluntary transfer of land to the State Treasury in exchange for the payment of benefits from the Farmers’ Social Security Fund. In 2019 and 2018, the share of the form of ownership transfer in the total number of non-market acquisitions was approx. 3%, while in 2017 it was approx. 7%. Life annuity contracts accounted for the smallest share, was at the level of 2–3%.

The analysis of the situation in agricultural real estate trading shows that legal conditions in recent years have had a relatively large impact on the intensity of ownership changes, relatively greater than the economic situation.

Legal regulations increasing the role of the state in agricultural real estate trading, especially in private market trading, made in order to shape the adopted model of agriculture, influenced not only the allocation of land between the public and private sectors, but also resulted, together with macro-economic conditions, in reducing the intensity of market ownership changes and a slowdown in the growth of agricultural land prices, especially in the first years of the new legislation in force. They also resulted in the reversal of the regularity of decreasing non-market turnover in the transfer of ownership of agricultural real estate, observed for years. The tendencies, after the legal “shock” passed, began to be marked again. Still, 47% of property rights transfer transactions are non-market transactions. The return to pre-2016 trends should be considered positive from the perspective of pro-efficiency structural measures in Polish agriculture.

In 2022, the average nominal price of 1 ha of agricultural land in private trade was EUR 12.8 thousand euro, and from the Agricultural Property Stock of the State Treasury – almost 9.3 thousand euro. The values were higher by 16.0% and 1.3%, respectively, as compared to the previous year, and by 39.1% and 25.3%, as compared to 2016. Over the past 12 years, private land has become more expensive by 280.6%, and treasury land by 142.4%.

Along with the growing interest in the lease and the possibility of increasing the land equipment of farms, the

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of notarial agreements transferring agricultural land free of charge</th>
<th>Share of agreements transferring ownership of agricultural land (Within)</th>
<th>Share (%) of non-market transactions in the total number of ownership changes</th>
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<tbody>
<tr>
<td></td>
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<td>donations</td>
<td>inheritances and family divisions</td>
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<tr>
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</table>

Source: based on data from the Statistics Department of the Ministry of Justice
amount of the lease rate increased. In 2022, the average rate in private lease transactions was EUR 305/ha, and in the state treasury land – EUR 331, while in 2021 the corresponding values were EUR 268 and EUR 243, respectively. Over the past year, the rate on the inter-neighbor market increased by 13.8%, and by 36.2% on the treasury land market. As compared to the rate in 2016, the rate for agricultural land increased by 44.5% and 77.0%, respectively, while in the period 2010–2015 the rate of increase in lease costs was not only higher, but practically identical in both segments of the lease market. At that time, leases became more expensive, about twice.

It should be emphasized that, apart from legal factors, the situation on the agricultural land market is strongly influenced by economic conditions. However, regardless of the periods of improvement and decline in the general economic situation, the existing economic conditions primarily influenced the increased demand-supply imbalance. The situation, as well as the market dominance of private trade, is a permanent feature of the agricultural real estate market.

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