

Data and information on agricultural land market regulations across EU Member States

ELO Seminar on 10 June 2021

**Liesbet Vranken, Ewa Tabeau, Peter Roebeling
with contributions from 22 country experts and associates**

Project objective

The overall objective:

To collect data and information on agricultural land market regulations in different MS that will allow to update and improve the land regulation indicator, developed by Swinnen, Van Herck and Vranken (2014), based on input from agricultural land market experts (MS country experts), latest available documentation (e.g. MS legislation, official documents, academic literature), and taking into consideration relevant theoretical and empirical developments in the area of agricultural land markets analysis, with a special focus on the EU.

Why do we care about land regulations?

- Well functioning land markets and institutions are important because:
 - 1) They allow access to land for the most productive farmers
 - 2) They facilitate stimulate productive investment
 - 3) They hedge against inflation, political power
- Functioning of land markets affects efficiency, equity, sustainable land management
- Yearly app. 60 billion euro is spent on the CAP, which intends:
‘to support farmers and improve agricultural productivity, ensuring a stable supply of affordable food and to safeguard EU farmers to make a reasonable living’ (EC, 2021)
- To what extent all these goals will be reached depends strongly on country-specific characteristics and policies

How we collected our data?

1. Country Expert Survey: **Structured Questionnaires**
 - Modules on land ownership, sales and rental regulations
 - Draft questionnaire shared with JRC and experts, comments and suggested incorporated → final version of the questionnaire (see Annex)
2. **Semi-structured group interviews** with country experts
 - On-line focus group discussions: 4 sub-groups
 - To complement the structured tables
3. **Country reports** by experts
 - Template country reports (see Annex)
 - Detailed, country-level information regarding the measures and the implementation of measures

What data was collected in the project?

- **M1. Measures to protect the tenant**

(minimum rental contract duration, maximum rental price, automatic rental contract renewal, conditions for rental contract termination, tenants' pre-emptive rights)

- **M2. Measures to protect the farm landowner**

(restrictions legal form buyer, restrictions nationality buyer for legal entities and natural persons, restrictions residence buyer, restrictions experience buyer, minimum sales price, pre-emptive right (neighbouring) farmer, maximum transacted/owned area)

- **M3. Measures to protect the non-farm landowner**

(minimum rental price, maximum duration of a rental contract)

- **M4. Measures to prevent land fragmentation**

(lower plot size limit, regulations on pre-emption buying rights of the co-owner)

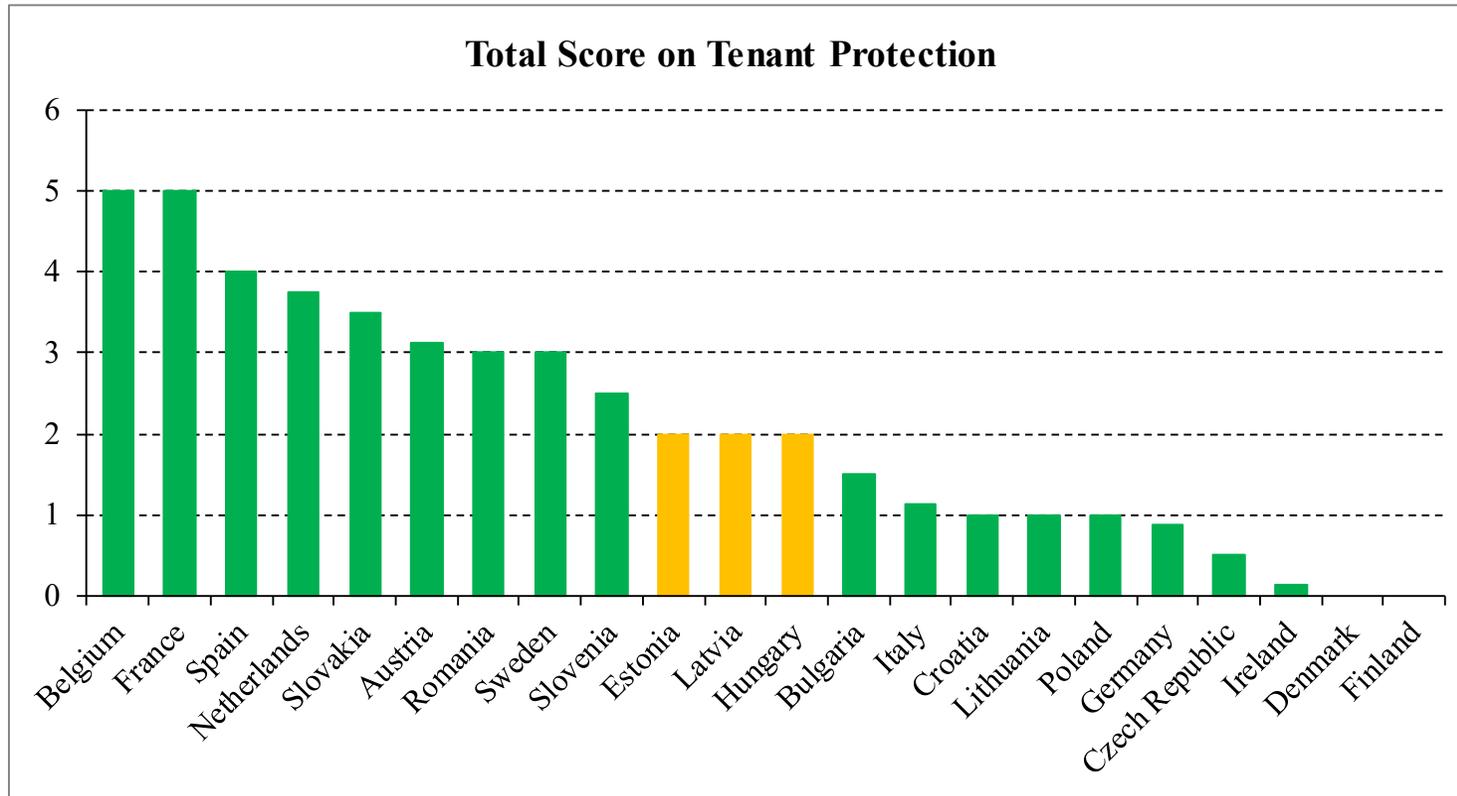
- **M5. Other measures targeting agricultural land market**

(requirement for publication of sale offers, procedures for sale of public land, “share deals” approvals, pre-emptive right for State/Public bodies, pre-emptive rights for family relatives, (temporary) moratorium to transfer ownership after acquisition, (temporary) moratorium to sell public land)

Results (excerpt) - Measures to protect the tenant

	Minimum rental contract duration	Maximum rental price	Automatic rental contract renewal	Conditions for rental contract termination	Pre-emptive right for tenant
Belgium	Yes	Yes	Yes	Yes	Yes
Bulgaria	Yes, for certain contracts	No	No	No	Yes
Czech Republic	No	No	No	No	Yes, but only for sale of state land
Denmark	No	No	No	No	No
Germany	No	No, but contract can be denied if price unreasonable price	Only if included in contract provision	No	Yes, but only indirectly through public organization if non-farmer wants to buy land
Estonia	No	No	Yes	No	Yes
Ireland	No	No	Only if included in contract provision	No	No
Spain	Yes	No	Yes	Yes	Yes
France	Yes	Yes	Yes	Yes	Yes
Croatia	No	Yes, but only for state owned land	No	No	Yes, but only for sale of state land
Italy	No	No	Only if included in contract provision	No	Yes
Latvia	Yes	Yes, but only land resulting from land reform	No	No	Yes, unless sold to family or unless the acquirer (other than the tenant) owns less than 10 ha for natural persons or 5 ha for legal persons

Measures to protect the tenant: countries order



Max	Min	Avg	Median	Skewness	Kurtosis
5.00	0.00	2.09	2.00	0.42	-0.79

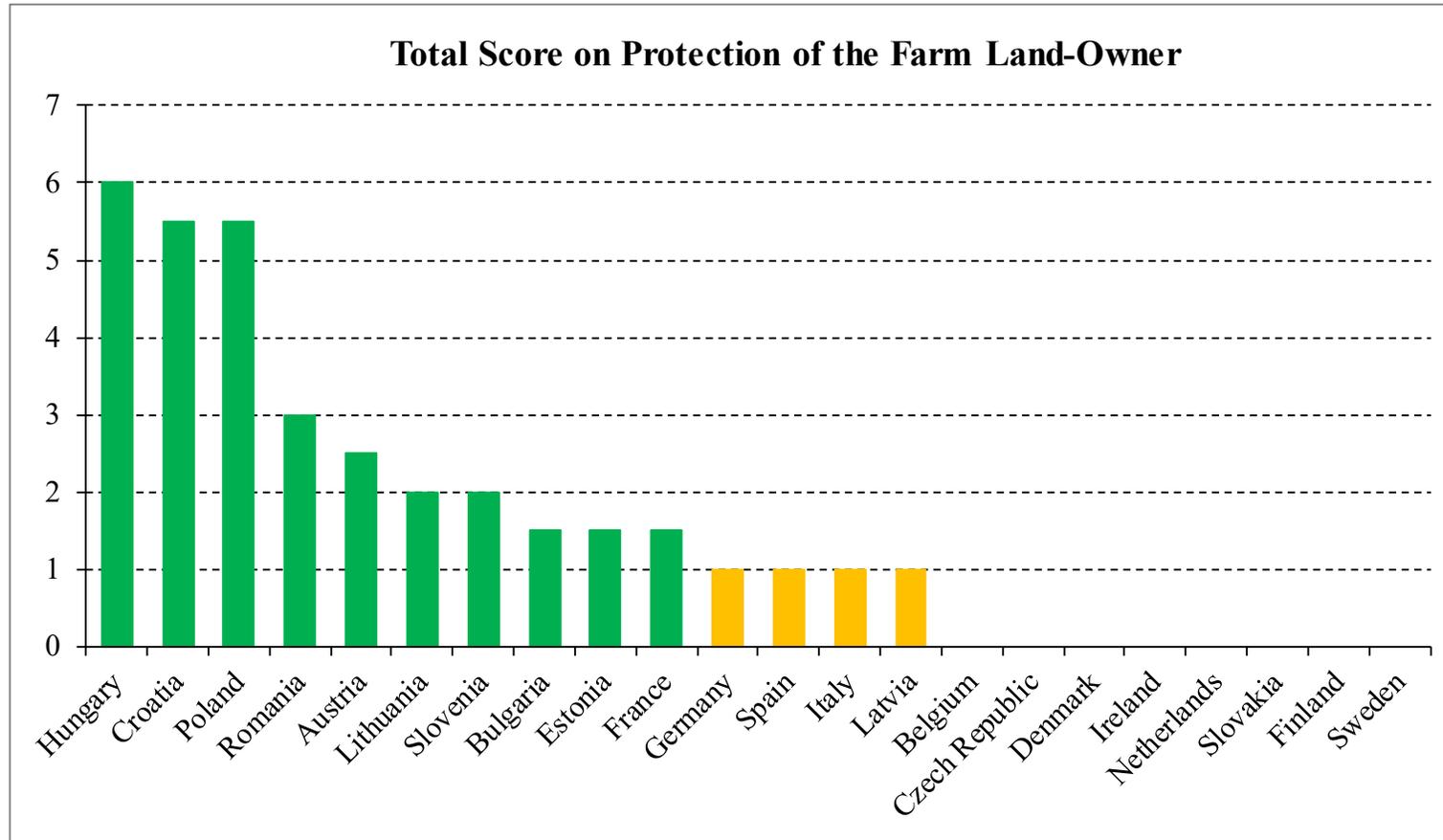
Measures to protect tenant: key observations

- Large differences still exist, but some changes in regulations appeared
- Strong tenant protection in Belgium, Spain, France, Netherlands,
- In some countries with strong regulations to protect tenants (e.g. Belgium, Netherlands), some liberalizations have been introduced
 - E.g. Netherlands: liberalized tenancy contracts
 - E.g. Belgium: written contracts in Wallonia
- Tenancy is becoming more important in countries that used to focus on self-ownership and with limited tenancy regulations. E.g. Denmark
- Tax exemptions are given to stimulate long(er) term rental contracts E.g. Ireland
- Approval of rental by governmental body is needed in some countries, e.g. Austria, Germany. Denial if rental leads for example to unhealthy distribution, fragmentation, unreasonable price

Results (excerpt) - Measures to protect the farm landowner

	Restrictions legal form buyer	Restrictions nationality buyer for legal entities	Restriction nationality buyer natural person	Restrictions residence buyer	Restrictions experience buyer	Maximum sales price	Pre-emptive right (neighbouring) farmer	Maximum transacted/ owned area
Belgium	No	No	No	No	No	No	No	No
Bulgaria	No	No	No	Yes, except for self-employed farmers	No	No	Yes	No
Czechia	No	No	No	No	No	No	No	No
Denmark	No	No	No	No	No	No	No	No
Germany	No	No	No	No	No	No, but transaction can be denied if excessive price	No, unless there is an acceptable justification (e.g. farmer can consolidate or has lost land, or the share of owned land is low)	No
Estonia	Yes	No	No	No	No	No	No, but pre-emptive right for adjacent land owner	No
Spain	No	No, except for specific regions	No, except for specific regions	No	No	No	No, but pre-emptive right for adjacent land owner	Not for sales, but renting in land as tenant is forbidden if certain area is already in ownership
France	No	No	No	No	No	No, but transaction can be denied if excessive price	No, but existence of priority order of buyers outside pre-emptive rights with 1) tenant; 2) neighbouring young farmer; 3) other neighbouring farmer	No, but the sale can be denied /annulled if transacted area is too large

Measures to protect the farm landowner: countries order



Max	Min	Avg	Median	Skewness	Kurtosis
6.00	0.00	1.59	1.00	1.37	1.02

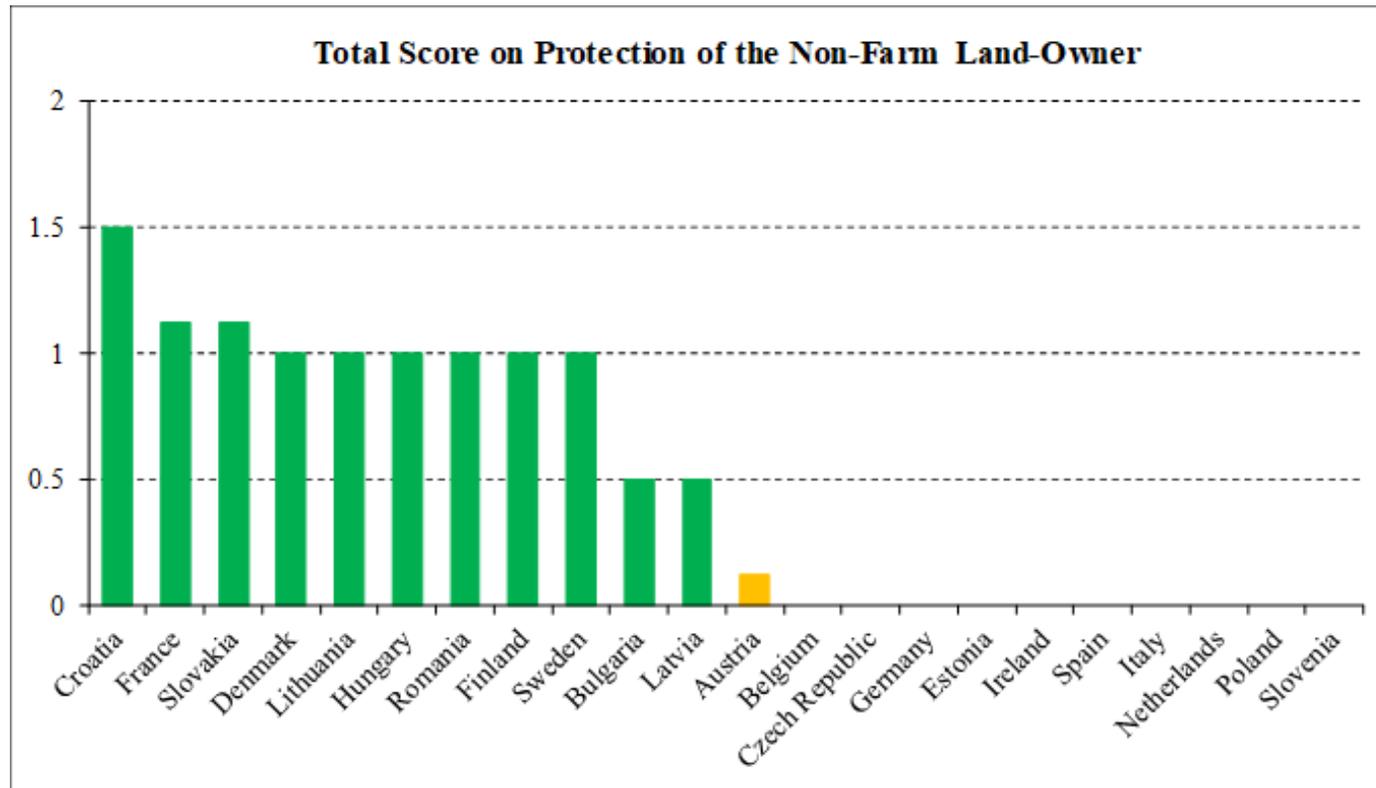
Measures to protect the farm landowner: key observations

- Strong protection of owner-cultivation in some countries: Hungary, Poland, Croatia, Romania.
- Some countries do not have strict regulations regarding maximum sales price or maximum transacted area, but transactions need to be approved by local governmental body. (E.g. Germany, Austria)
Sales refusal can for example occur for sales to non-farmers, if price is unreasonably high, if sale promotes the formation or expansion of large estates, if land is not used for the intended purposes, to avoid fragmentation.
Such approvals are mainly introduced to guarantee access to land to (small and medium size) farmers.
- Pre-emptive rights that are given to farmers (neighbouring farmers or farmers with residence in the country) favour access to land in ownership by farmers.

Results (excerpt) - Measures to protect the non-farm landowner

	Minimum rental price	Maximum rental contract duration
Belgium	No	No
Bulgaria	No	Yes, but only for certain type of tenancy contracts
Czechia	No	No
Denmark	No	Yes
Germany	No	No
Estonia	No	No
Ireland	No	No
Spain	No	No
France	Yes	Existence of reference contract durations
Croatia	Yes, for state owned land	Yes
Italy	No	No
Latvia	Yes, but only for state owned land leased with redemption rights	Yes, but only for state owned land leased with redemption rights
Lithuania	Yes, for municipality owned land	Yes, but only for state owned land
Hungary	No	Yes
Netherlands	No	No
Austria	No	Existence of reference contract durations
Poland	No	No
Romania	No	Yes
Slovenia	No	No
Slovakia	A non-binding minimum rental price exists which is set at very low level	Yes
Finland	No	Yes
Sweden	No	Yes

Measures to protect non-farm landowner: countries order



Max	Min	Avg	Median	Skewness	Kurtosis
1.50	0.00	0.49	0.31	0.36	-1.61

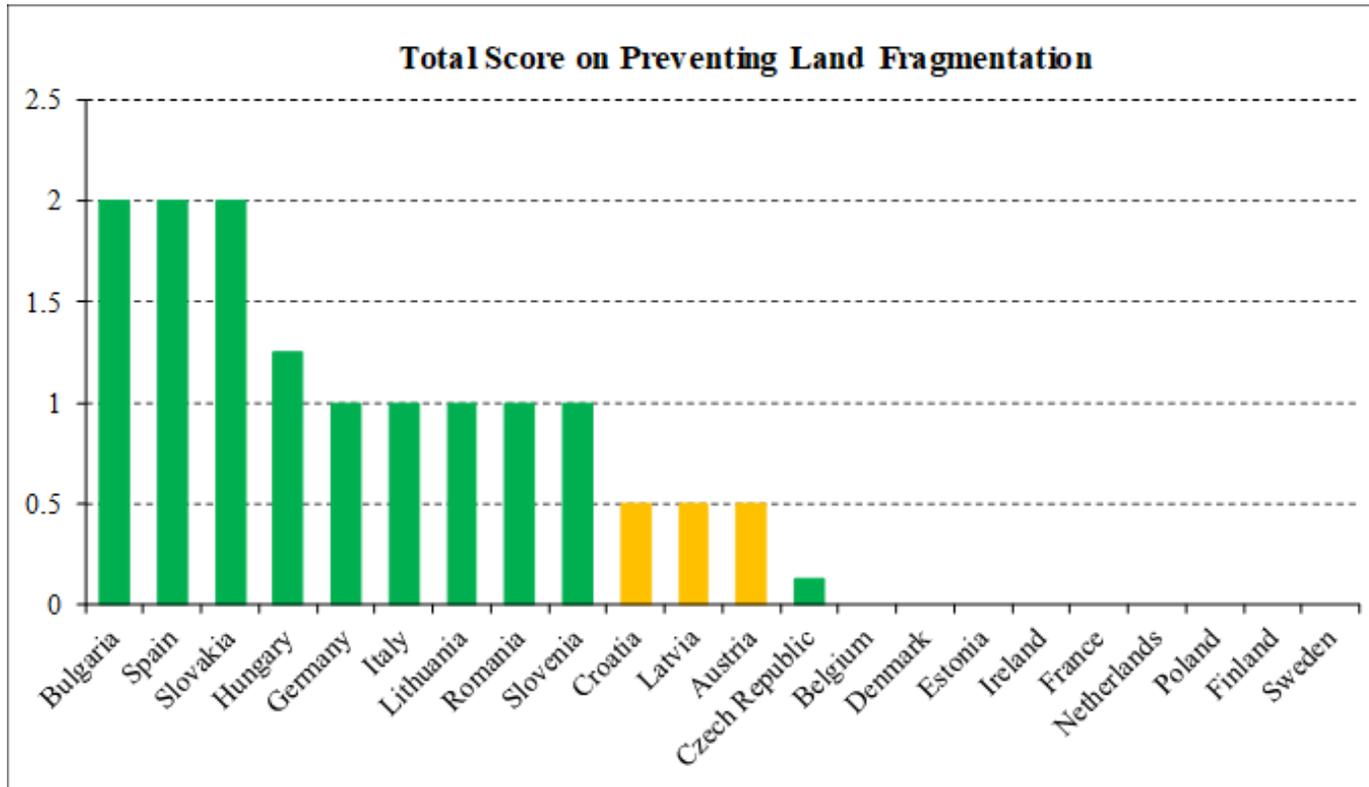
Measures to protect non-farm landowner: key observations

- Measures listed in this group could indeed favour non-farm land owner, but could also favour access to land for new or expanding farmers.
- In some countries where a lot of land is in state-ownership or where a lot of land is still owned by ‘not identified’, the measure rather make that land for rental becomes available for “other” farmers than the sitting tenant.

Results (excerpt) - Measures to prevent land fragmentation

	Lower plot size	Pre-emptive right co-owner
Belgium	No	No
Bulgaria	Yes	Yes
Czechia	No	Yes, but only for 6 months after acquisition
Denmark	No	No
Germany	Yes	No
Estonia	No	No
Ireland	No	No
Spain	Yes	Yes
France	No	No
Croatia	Subdivision of already consolidated plot not allowed	No
Italy	No	Yes
Latvia	No	Yes, unless sold to family or unless the acquirer (other than the co-owner) owns less than 10 ha for natural persons or 5 ha for legal persons
Lithuania	No	Yes
Hungary	State land will not be subdivided in plots <1 ha or <3 ha for orchards	Yes
Netherlands	No	No
Austria	Transfer can be denied if it leads to disruption of a favourable land structure	No
Poland	No	No
Romania	No	Yes
Slovenia	No	Yes
Slovakia	Yes	Yes
Finland	No	No
Sweden	No	No

Measures to prevent fragmentation: key observations



Max	Min	Avg	Median	Skewness	Kurtosis
2.00	0.00	0.63	0.50	0.85	-0.41

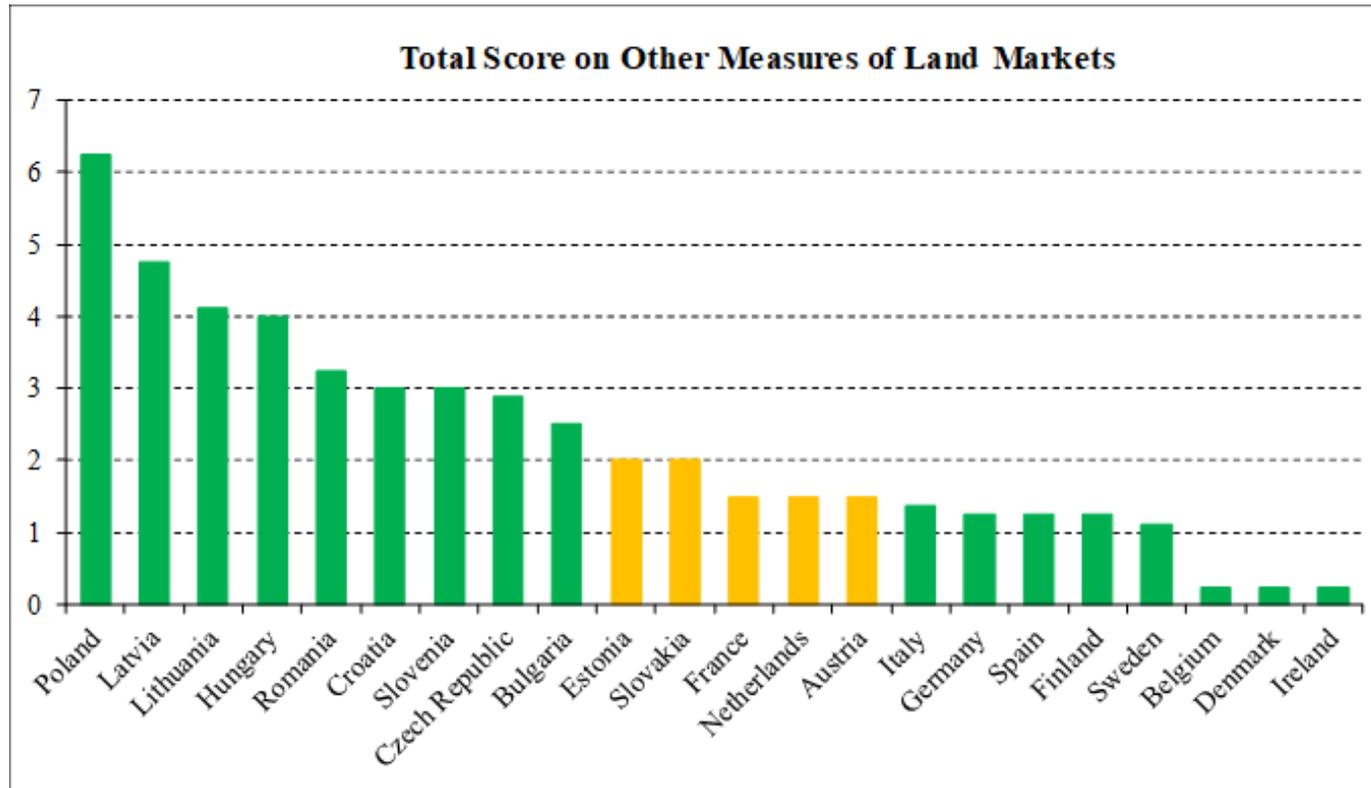
Measures to prevent fragmentation: key observations

- Land fragmentation is an issue in many countries. Not surprisingly, many countries take measures to prevent fragmentation.
- In some countries, there are absolute size limits below which a plot can not be divided (e.g. in Bulgaria, Spain and Slovakia).
- In others, there are no absolute measures, but sale of a plot might be refused if it leads to unfavourable plot sizes (e.g. in Austria).
- In many countries, co-owners have pre-emptive rights. This does not only limits fragmentation, but can also ease access to land for heirs that take over the farm.
In some countries, co-heirs have pre-emptive rights as well.

Results (excerpt) – Other Measures

	Requirement publication sale offers	Procedures for sale public land	Share deal approvals	Pre-emptive right for State/Public bodies	Pre-emptive rights family relatives	(Temporary) moratorium to transfer ownership after acquisition	(Temporary) moratorium to sell public land
Belgium	No	No	No	Governmental body can take possession of the land under specific conditions e.g. to build new residential area	No	No	No
Bulgaria	No	Yes	No	No	No	Yes, but only for land acquired from state or municipalities	Yes
Czechia	Yes, for State land	Yes	No	Yes, but only municipalities and regions have pre-emptive rights (without payment) for State land.	Yes	Yes, but only for land acquired from state or municipalities	No
Denmark	No	No	Administrative approval needed for the transfer of shares of a legal entity that owns agricultural land	No	No	No	No

Other measures: countries order



Max	Min	Avg	Median	Skewness	Kurtosis
6.25	0.25	2.24	1.75	0.92	0.68

Other measures: key observations

- In almost half of the countries, there are specific procedures regarding the sale of state-owned land. Such measures will mainly have an impact on land exchanges if a large amount of land is still in state ownership or in ownership of a governmental body (e.g. in Bulgaria, Czech Republic, Estonia, Spain, Croatia, Latvia, Lithuania, Hungary, Romania, Slovenia and Slovakia).
- Pre-emptive rights vary widely between countries and seem to be an important tool to steer land transactions. In some countries, the state (or a governmental organization) has pre-emptive rights. As such they can steer who gets access to land. (e.g. in Germany, France, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Finland)

Other measures: key observations

- Pre-emptive rights are also held by family relatives (e.g. in Czech Republic, Poland, Romania and Slovenia). This could have different purposes: land ownership remains in local ownership and cultural ties with the land are preserved, but also access to land to local farmers can be facilitated.
- Pre-emptive rights are also given to adjacent land owners or neighbouring land owners (e.g. in Bulgaria, Estonia, Hungary and Poland). This could also serve different purposes: stimulate consolidation, but also ensuring that land remains in local ownership.
- Tax reliefs are given if land is sold to family or when it is sold to keep it under active farming (e.g. in Ireland).

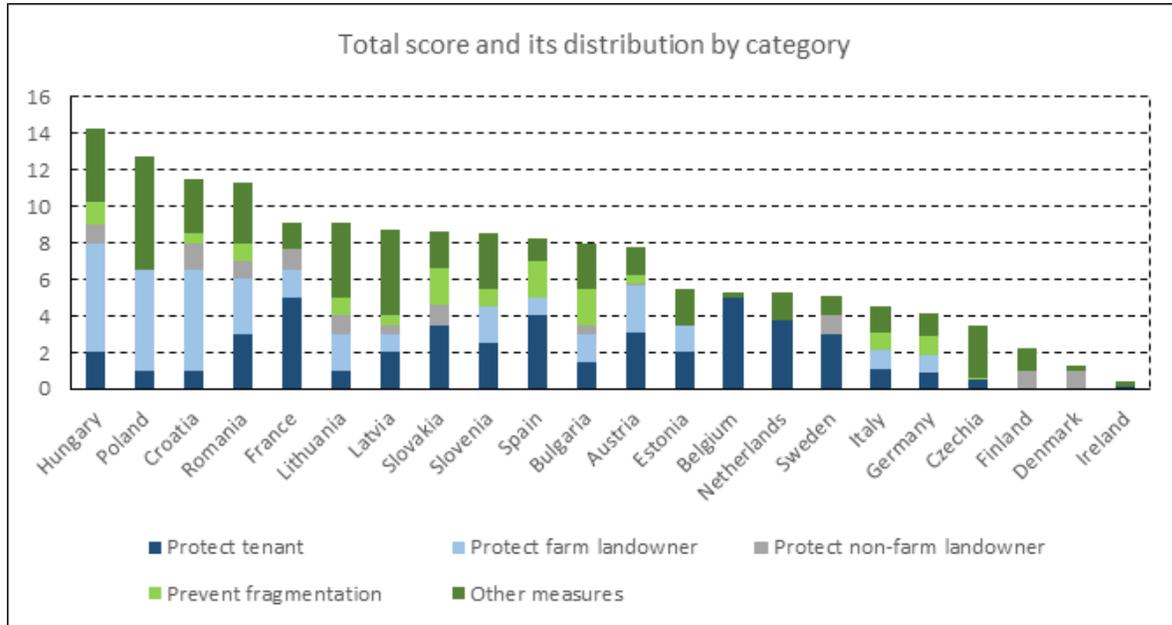
Comparison between EU Member States

- Countries with heavily regulated land markets.
E.g. Hungary, Poland, Croatia and Romania: strong focus on measures to protect farm land owners
E.g. France: strong focus on measures to protect tenant
- Countries with liberal land markets
E.g. Ireland, Denmark, Finland, Czech Republic and Italy
- In New Member States (e.g. Croatia, Latvia, Lithuania, Hungary, Poland and Romania), there are land regulations that were not considered by Swinnen et al (2014). Probably because transitional restriction on the acquisition of agricultural real estate has been lifted, while the fear that land will be bought by investors that are not interested to farm the land and/or foreign farmers still exist.

Discussion and Conclusions

- Large differences in regulations, no clear divide East/West or Old/New MS
- Some countries with strict tenancy regulations are making the regulations less strict. In countries that used to focus on owner-ship cultivation, tenancy is getting more important and longer term leases are being encouraged.
- Pre-emptive rights are an important tool to steer the land market.
- Land fragmentation is still an issue. Many countries take measures. However, caution is needed, particularly if it leads to imperfect property rights.
- If large amounts of land are still publicly owned, procedures for rental and sales of public land can be an important tool to intervene.
- Tax exemptions are sometimes introduced to steer transactions, e.g. to stimulate long term lease, to ensure land remains under active farming

Total number of land market measures, 22 MS, around 2020



Max	Min	Avg	Median	Skewness	Kurtosis
14.25	0.38	7.05	7.88	0.05	-0.51

- Total of 24 different measures collected for 22 countries:
 - 5- tenant protection, 8- farm land-owner protection, 2- non-farm landowner protection, 2- preventing fragmentation, 7- other measures
- Maximum score: 14.25 in Hungary
- Other high scores: Poland, Croatia and Romania (12.75, 11.5 & 11.25)
- Minimum score: Ireland (0.38)
- Other low scores: Denmark, and Finland (0.375, 1.25, 2.25)
- Median: app. 8 (Bulgaria, Spain)
- Average: app. 7 (none at this exact level)

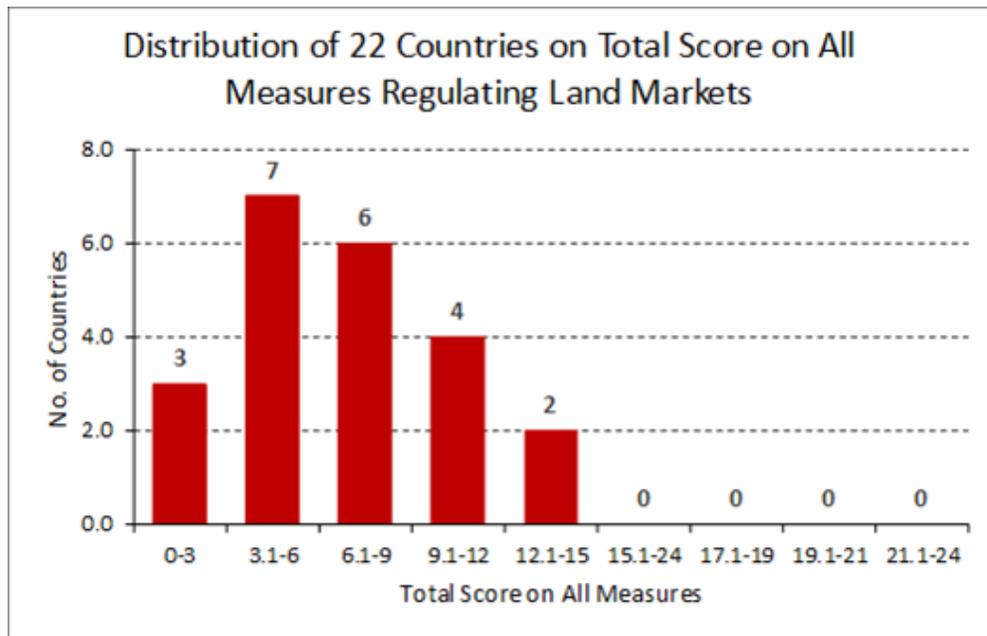
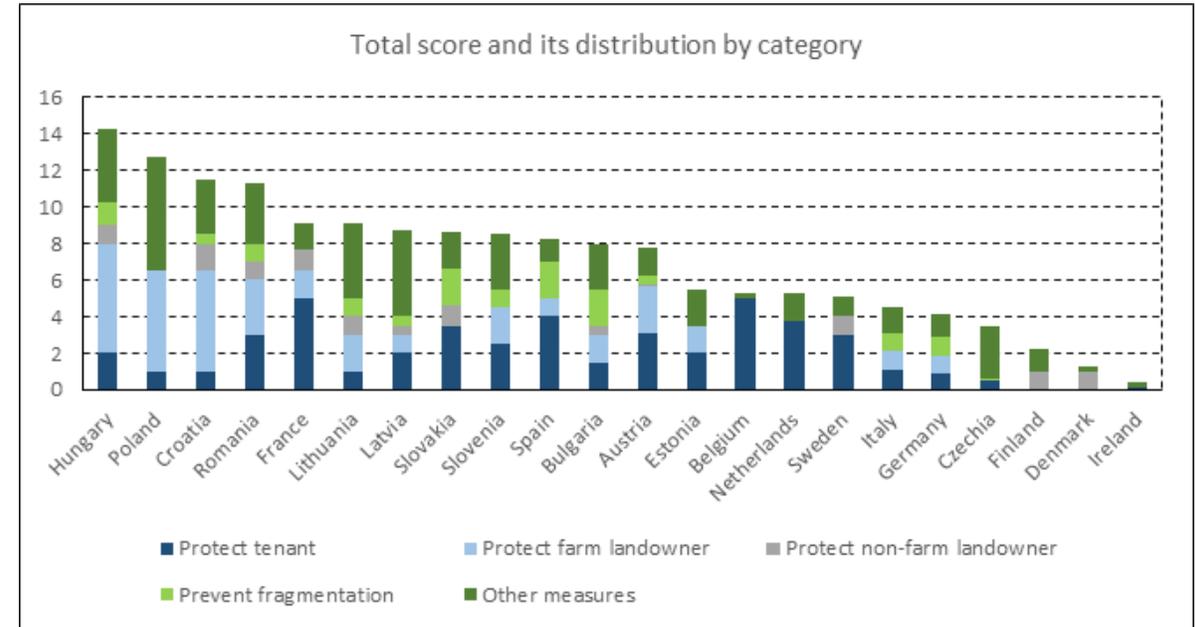
Total number of land market measures, 22 MS, around 2020

Amongst the 11 countries with **relatively** higher numbers of regulations:

- only 2 old MS (France and Spain) and 9 new MS

Amongst the 11 countries with **relatively** lower numbers of regulations:

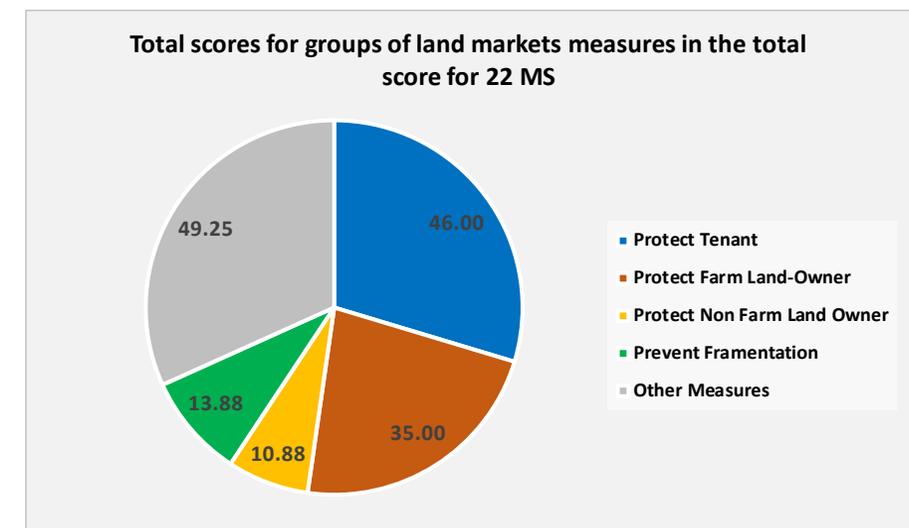
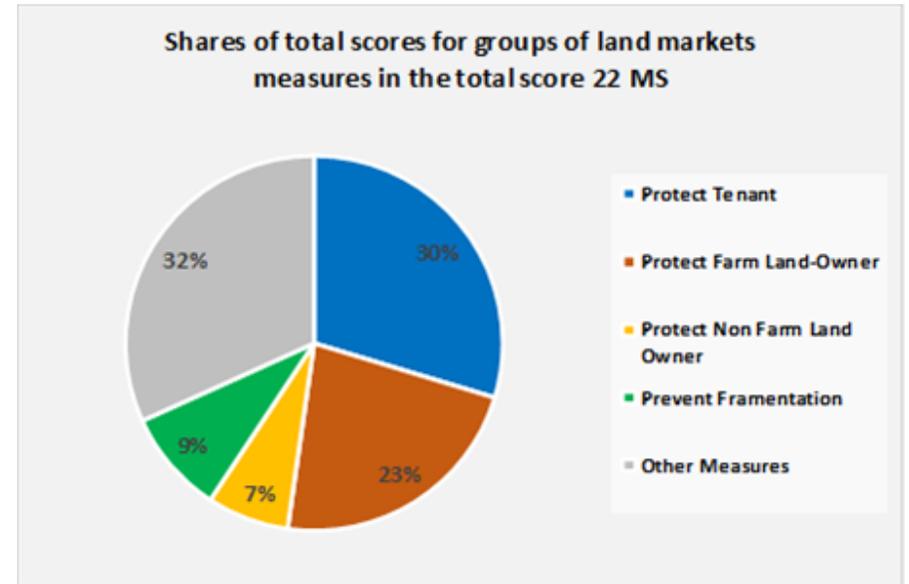
- only 2 new MS (Estonia and Czechia) and 9 old MS



- The distribution is left-skewed with the peak in the interval of 3.1 to 6 regulations (7 countries)
- A concentration of countries (13 out of 22) between 3.1 to 9 regulations

Distribution of the total score for all measures by groups of measures: All 22 MS, around 2000

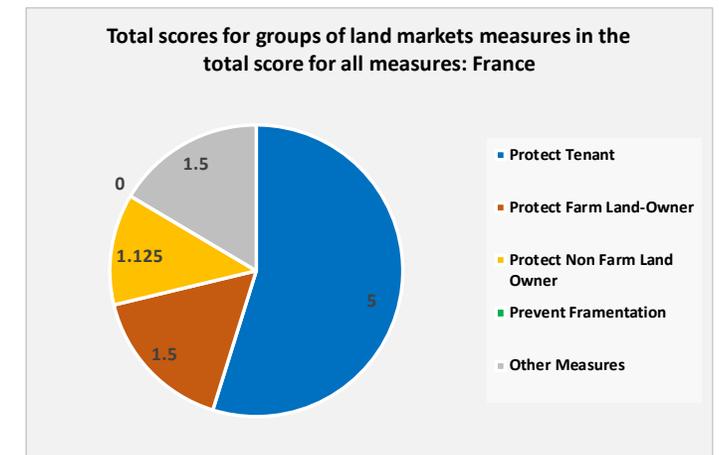
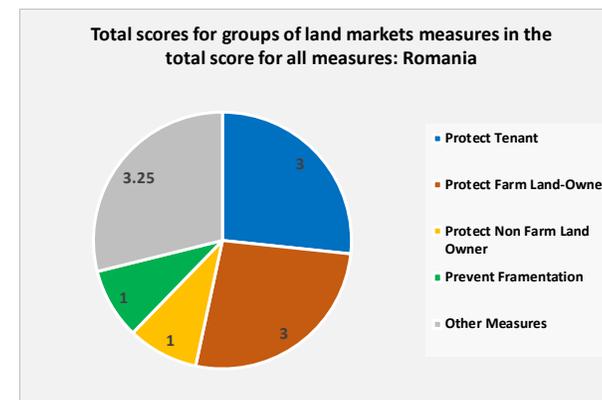
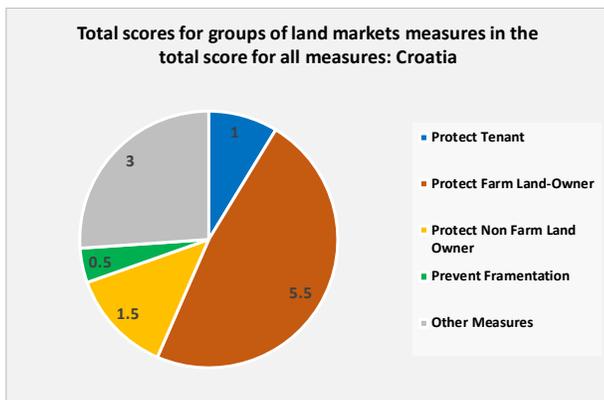
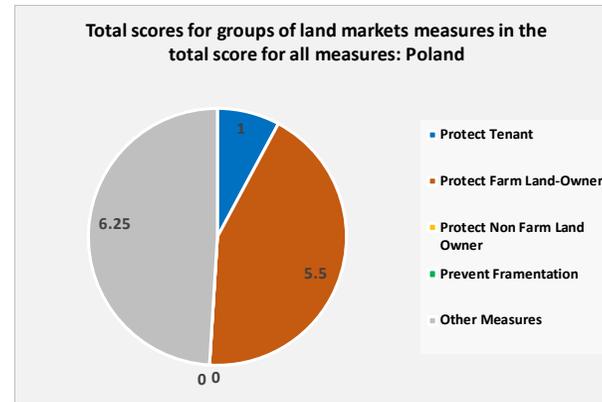
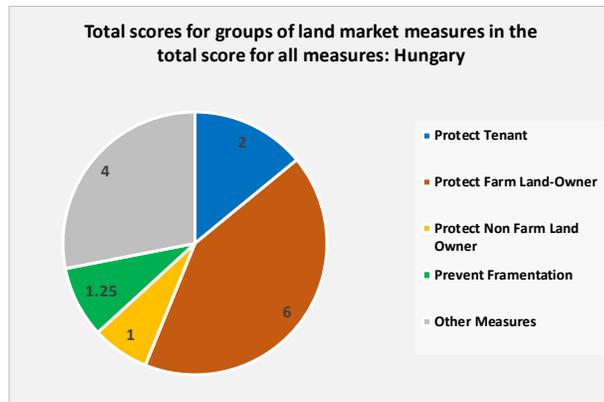
- **Total score for all countries:** 155 (100%)
- **Two largest contributions:** tenant protection (30%) & other measures (32%). Jointly, 95.25 out of 155 regulations, or 62% of EU total.
- **The second biggest group:** protection of farm landowner (35 out of 155, or 23 %).
- **Two remaining groups:** protection of non-farm landowner & preventing land fragmentation, each with less than 10% of the total. (App. 25 out of 155, or 16%).



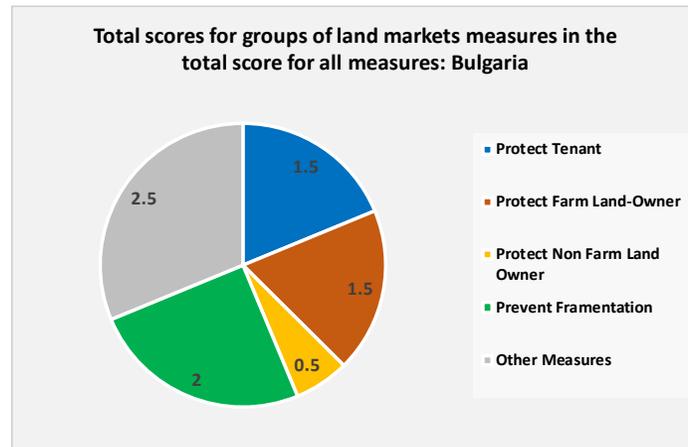
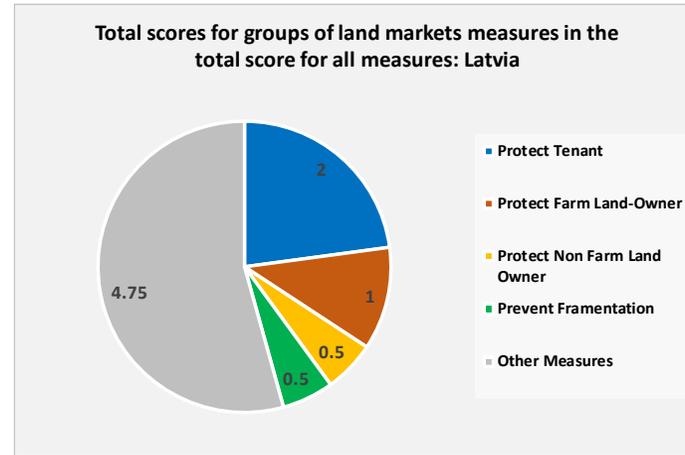
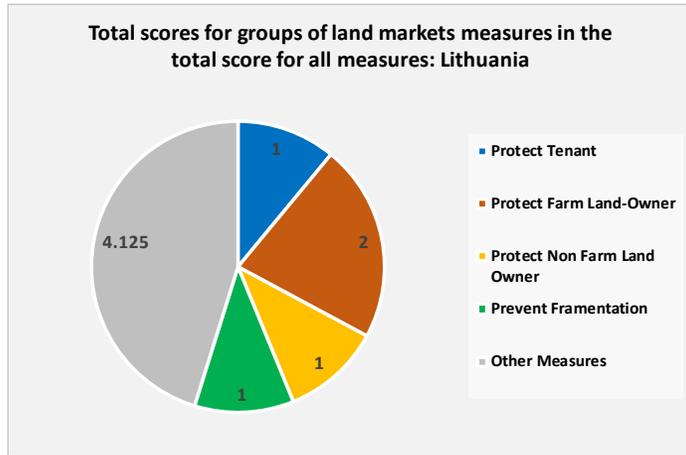
Countries vary in their exercising of land market regulations

If many regulations in place (e.g. Hungary, Poland, Croatia, Romania): measures to protect farmland owners and other measures dominant

Relatively many regulations (France): protecting the tenant is main focus, also other types present



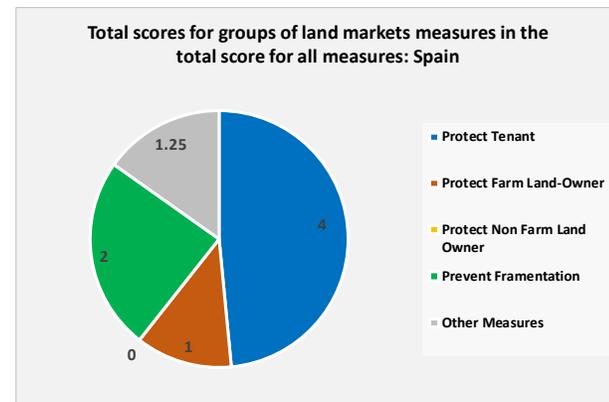
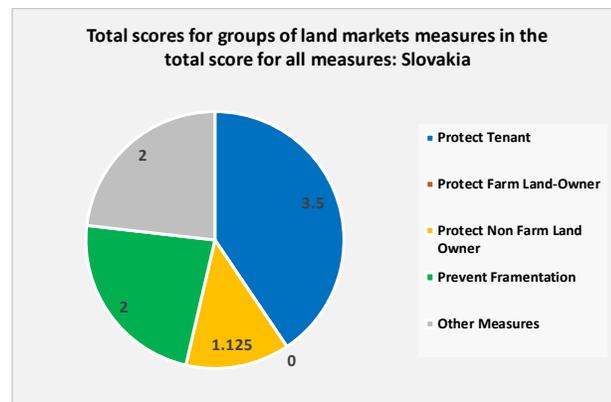
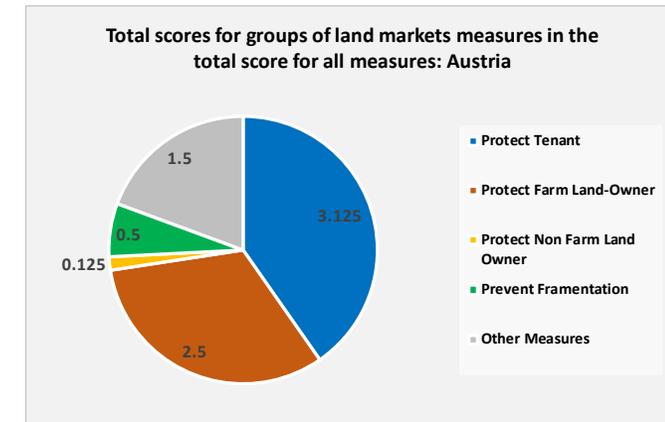
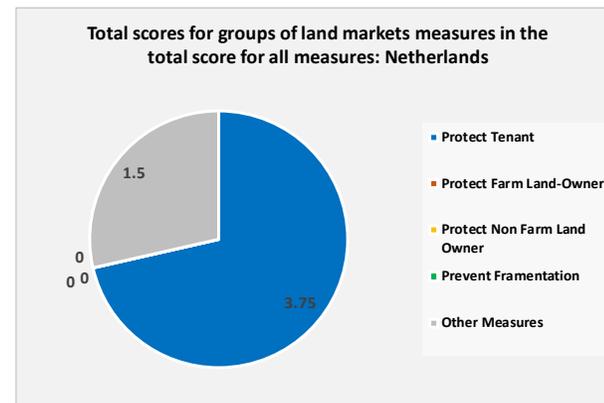
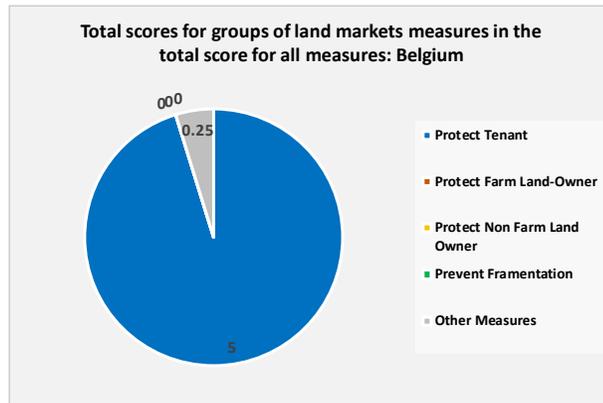
Countries vary in their exercising of land market regulations



Relatively many regulations - other (Lithuania, Latvia and Bulgaria): strong presence of other measures and mixture of remaining measures (incl. landowner/tenant protection & preventing land fragmentation)

Countries vary in their exercising of land market regulations

Moderate number of regulations (Belgium, Netherlands, Spain, Slovakia & Austria): tenant protection – the main or sometimes only focus



New MS (e.g. Lithuania, Latvia, Hungary, Poland, Croatia): other regulations dominate (state control and pre-emptive rights to state, family, tenants, neighbouring farmers etc.)

- These countries had for several years transitional restrictions on the acquisition of agricultural real estate
- These temporary measures have now been lifted in several countries (except in Croatia)
- Compared to land prices in the Old Member States, land prices in these countries are still relatively low
- To prevent that land will be bought by investors not interested in farming and/or foreign farmers, new measures were introduced in these countries
- Regulations like pre-emptive rights for local farmers, tenants, family relatives and the State or public bodies alongside with the maximum threshold imposed on transacted or owned area in some new MS may hold back land purchases by these non-local, non-farming investors

Final comment

- Some of the agricultural land market measures considered in the report overlap largely with the measures discussed in the Commission's Communication, OJ 2017/C 350/05, including: prior administrative approval of land market transactions, requirements that the acquirer of agricultural land farms the land himself, holds qualifications in farming and has been residing or doing business in the given country, pre-emptive rights favouring tenants, neighbouring farmers or locals and prohibiting selling to legal persons.
- These measures were indeed included in the recent amendments to the legislation in some new MS and coincided with the end of the transitional periods during which the Accession Treaties allowed to restrict EU investors from buying agricultural land in these countries.
- In this context, the Commission expressed concerns that the new laws discriminate, through their practical effects, against nationals from other EU countries or impose other disproportionate restrictions that could negatively affect investments.
- Whereas we are not in the position to make any statements about whether any freedoms or rights of the European Union were violated through the regulations concerned, our study shows that a number of regulations highlighted in the Commission Interpretative Communication OJ 2017/C 350/05 are currently still in place in several countries and the issue could be further explored. (See the summary Tables 2 to 6).

Thank you for your attention