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# Land reform in Central and Eastern Europe after 1989 and its outcome in the form of farm structures and land fragmentation



Morten Hartvigsen

ORBICON

2013



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Photograph on the cover: Popovo Polje, Bosnia and Herzegovina  
Photography: Morten Hartvigsen

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### **Note:**

The author has worked as a consultant to FAO on land consolidation projects in Albania, Armenia, Bosnia and Herzegovina, Lithuania and Moldova, and in addition has used the FAO training materials on land consolidation in other projects in Croatia and Kosovo. The author has also contributed to FAO publications on land consolidation, including FAO Land Tenure Studies 6 (The design of land consolidation pilot projects in Central and Eastern Europe, 2003), FAO Land Tenure Manuals 1 (Operations manual for land consolidation pilot projects in Central and Eastern Europe, 2004), and FAO Land Tenure Policy Series 1 (Opportunities to mainstream land consolidation in rural development programmes of the European Union, 2008).

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## **List of Abbreviations**

APA	Agricultural Property Agency (Poland)
BVVG	Bodenverwertungs- und verwaltungs GmbH
CAE	Collective Agricultural Enterprise (Ukraine)
CIS	Commonwealth of Independent States
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
SOE	Socially Owned Enterprise (ex-Yugoslavia countries)
UAA	Utilized Agricultural Area
UNMIK	The United Nations Interim Administration Mission in Kosovo
WB	World Bank
WWI	World War I
WWII	World War II

## 1. Introduction

The countries in Central and Eastern Europe began a remarkable transition from a centrally-planned economy towards a market economy in 1989 when the Berlin Wall fell and the Iron Curtain lifted. Land reforms with the objective to privatize state-owned agricultural land, managed by large-scale collective and state farms, were high on the political agenda in most countries of the region at the beginning of the transition. More than 20 years later the stage of implementation of land reform varies. Some countries had already finalized land reform in the mid-1990s, others are in the process, and a few have still not taken any significant steps.



Figure 1: The 25 study countries in Central and Eastern Europe.

A number of books and research papers have been published, especially in the late 1990s and early 2000s, on land reform in individual countries, and a few comprehensive overviews have been provided (e.g. Swinnen et al., 1997; Wegren, 1998; Giovarelli and Bledsoe, 2001; Lerman et al., 2004; Sedik and Lerman, 2008).

These studies indicate both some general patterns and a wide variation in land reform processes and results between Central and Eastern European countries.<sup>1</sup>

It has often been stated that land fragmentation and farm structures characterized by small agricultural holdings and farms divided in a large number of parcels have been a side-effect of land reform in Central and Eastern European countries (e.g. Rembold, 2003), and during the last two decades more than half of the countries in the region have introduced land consolidation instruments to address these structural problems in the agricultural sector.<sup>2</sup> So far, however, only a few studies on land fragmentation in the Central and Eastern European context have been conducted (Sabates-Wheeler, 2002; Van Dijk, 2003) and no comprehensive overview of the linkage between the chosen land reform approach and land fragmentation has been presented.

This paper reviews the land reform approaches that have been applied in 25 countries, from the Baltic and Central European countries in the West, to Russia and the small Transcaucasus countries in the east, and to the Balkan countries in the south (figure 1). It further describes the farm structures and land fragmentation that emerged as a result of the reforms.

This paper thus provides a basis for answering research questions such as: *What is the linkage between the chosen land reform approach and the outcome in the form of farm structure and land fragmentation? Under which conditions is land fragmentation a barrier for development of the rural land market and the agricultural and rural sector in general?*

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<sup>1</sup> Swinnen, J & Mathijs, E. (1997): *Agricultural privatisation, land reform and farm restructuring in Central and Eastern Europe: A comparative analysis*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 367.

<sup>2</sup> Hartvigsen, M. (2006): *Land Consolidation in Central and Eastern European Countries*. Conference paper for FIG Congress, Munich 2006.

## 2. Methodology

Land reform in the countries in Central and Eastern Europe (and more specifically the land reform approaches applied in the countries, and their outcome in the form of farm structures and land fragmentation) has been analysed in several papers and books. The level of documentation on land reform and its outcome varies considerably from country to country, with much information being available from Central European countries, such as Hungary and the Czech Republic, and as well as from Albania and Russia, and with very little information being available for the countries of ex-Yugoslavia (except Slovenia) and for the three Transcaucasus countries. In this paper, the 25 countries have been divided into six groups based on geography and similarities in background and the aim has been, to the extent possible, to provide the same level of detail for all countries.

There are two fundamentally different aspects of land fragmentation, i.e. ownership fragmentation and use fragmentation, and the impact of land fragmentation on the rural land market and agricultural development lies in the intersection between the ownership and use of agricultural land. Thus, it would be most desirable to have comparable quantitative data on both the ownership as well as the use of agricultural land in the study countries in order to give a fully comprehensive answer to the research question of the impact of land fragmentation. As for the ownership structure in the countries in relation to land fragmentation, it would be desirable, at a minimum, to have data about sizes of agricultural holdings (e.g. average size of agricultural holding) and the average number of agricultural parcels per agricultural holding. In this paper, the term “agricultural holding” is understood as the agricultural land owned by one entity, whether a natural or legal person. The “farm”, on the other hand, includes the agricultural land actually utilized by the farm including land leased in and leased out. For the use of the land, at least comparable data about farm sizes and the leasing of agricultural land would be desirable. For the latter, the share of leased land of the utilized agricultural land is available for the EU member countries.<sup>3</sup>

The study has unfortunately shown that all the desirable data are not available for all countries, and where data are available, they are often not fully comparable. Other studies of land reform in Central and Eastern European countries have faced similar problems.<sup>4</sup> Obviously, all 25 study countries have statistics on the ownership of agricultural land as well as farm statistics. For the EU member countries, farm statistics are available from Eurostat. The problem with the EU agricultural statistics in the context of the study is that the focus of the statistics is almost exclusively on the actual use of the land (i.e. farms) and not on landownership. For the non-EU study countries the main problem is difficulties in comparability. In the study, the lack of fully comparable quantitative data in all countries has been overcome by supplementing the available quantitative data with qualitative descriptions and analysis. Where no other data or formal references have been available, personal communication from key persons in the countries has been used as a source of information.

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<sup>3</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>4</sup> Swinnen, J & Mathijs, E. (1997): *Agricultural privatisation, land reform and farm restructuring in Central and Eastern Europe: A comparative analysis*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 347.

### 3. Land reform in Central and Eastern Europe since 1989

In the following sections, the land reform approaches that have been applied in the 25 study countries from 1989 onwards are described and analyzed together with the farm structures and the level of land fragmentation that has emerged in each country. The six country groups are:

- The Baltic countries (section 3.1);
- The Central European countries (section 3.2);
- The Balkan countries, except former Yugoslavia (section 3.3);
- The former Yugoslavia countries (section 3.4);
- The Western CIS countries (section 3.5);
- The Transcaucasus countries (section 3.6).

#### 3.1 The Baltic countries

The three Baltic countries, **Lithuania, Latvia and Estonia**, began their transition to a market economy after they regained their independence in 1991. In 2004, all three countries became members of the European Union.

The three Baltic countries all got their independence in 1918 in the aftermath of World War I (WWI). The choices of land reform approach after 1990 were, in all three countries, very much determined by land reforms that had been conducted in the period of 1920-40. These inter-war reforms involved the expropriation of land from large private estates.<sup>5</sup> The land was redistributed to those who had served in the national armies, the landless and existing smallholders. By the end of the 1930s, about 140 000 family farms had developed in Estonia, more than 275 000 in Latvia and more than 287 000 in Lithuania. Average farm sizes varied between 15 and 23 hectares (ha) in the three countries. Thus, the inter-war reforms resulted in what was at that time a modern agricultural structure dominated by commercial family farms.

The reform and agricultural development process was interrupted in 1940 by World War II (WWII). After the end of WWII, the Baltic States were incorporated into the Soviet Union as the Soviet Socialist Republics of Estonia, Latvia and Lithuania. During the Soviet era all agricultural land was owned by the State and the agricultural production was organized in large-scale collective and state farms. In all three countries, land had been formally expropriated without compensation from its private owners during the collectivization process.<sup>6</sup>

After the collapse of the Soviet Union, Lithuania, Latvia and Estonia declared their independence in 1991 and the transition to a market economy began. In fact, the land reform process in all three Baltic countries had already started under Soviet Union legislation in 1989.<sup>7</sup> From 1989, individual household farms were allowed to increase

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<sup>5</sup> Meyers, W.H and Kazlauskienė, N. (1998): *Land reform in Estonia, Latvia and Lithuania – A comparative analysis*. In Wegren, S (ed.): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 87.

<sup>6</sup> Giovarelli, R and Bledsoe, D. (2001). *Land Reform in Eastern Europe*. FAO. P. 37.

<sup>7</sup> Meyers, W.H and Kazlauskienė, N. (1998): *Land reform in Estonia, Latvia and Lithuania – A comparative analysis*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 90.

from 0.5 ha to 2 ha and even to 3 ha for agricultural employees. In Estonia, an even larger increase without an exact limit was allowed. The land remained state-owned and only the use rights were transferred to the individuals. In the mid-1990s, these household plots became eligible for privatization in favour of the current users who were allowed to purchase the land from the State with cash or compensation vouchers from the restitution process.

The main land reform process began in Lithuania, Latvia and Estonia in 1991 after the three countries regained their independence. The overall political goal of land reform in all three countries has been to re-establish the pre-WWII farm structures based on private landownership and strong family farms.<sup>8</sup> Thus, the restitution of the property rights as they were in 1940 was chosen as the main approach of land reform in the three Baltic countries.

In all three countries, land administration systems were re-established in parallel with the land reform process after more than 40 years of State ownership.

### 3.1.1 Lithuania

In Lithuania, the main laws for the regulation of the land reform were the *law on land reform* and the *law on the procedure and conditions of the restoration of the rights of ownership to the existing real property*.<sup>9</sup> Restitution could take place in kind (i.e. to get back the old family land); in equivalent (i.e. to get other land); or through compensation (i.e. in money). The National Land Service under the Lithuanian Ministry of Agriculture has had the overall responsibility for the land reform process.

The land restitution process in Lithuania consisted of the following steps:

- Analysis of existing land use situation
- Preparatory land management works
- Preparation of the Land Reform Land Management Plans
- Publicity procedure and approval of the plan
- Surveying in the fields
- Preparation of legal documentation of ownership
- Approval by the notary and registration in the State Land Cadastre

For each cadastre area, of which there are a total of 1 403 in Lithuania, a *Land Reform Land Management Plan* was prepared based on the claims for restitution received from former landowners or their heirs. The plan was prepared in close dialogue with those eligible for restitution who had chosen restitution in kind and in equivalent. Due to physical changes in the field during the half century under Soviet rule, it was often not possible to reconstitute exactly the same parcel boundaries as owned by the family before WWII. The preparation of the restitution plan was often also complicated by the possibility for restitution in equivalent land. This option allowed the eligible persons to move their land rights from one part of the country to another (e.g. from where the family land was in 1940 to where the heirs lived at the time of restitution).

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<sup>8</sup> Ibid P. 89.

<sup>9</sup> Daugaliene, V. (2004): *Preparation for Land Consolidation in Lithuania in Modern Land Consolidation - Proceedings of a Symposium held by FIG Commission 7 on 10 and 11 September 2004 in Volvic, France*. FIG. P. 126.



*Family farm in Lithuania using privatized building of former collective farm (2002).*

The *Land Reform Land Management Plans* prepared from 1995 were approved by the County Governors. From 1991 until 2008, ownership rights have been restituted to nearly four million ha or 97 percent of land in rural areas.<sup>10</sup> In total, 715 000 people claimed land to be restituted.

The land reform process in Lithuania was slowed down by many amendments to the legislation as the political majorities shifted in the Parliament. Thus, both deadlines and people eligible for restitution changed many times throughout the process.<sup>11</sup> Also, the maximum area of land to be restituted increased over time.<sup>12</sup> When the process began in 1991, a maximum of 50 ha of agricultural land and 10 ha of forest could be restituted. In 1995, the maximum size increased to 80 ha of agricultural land and 25 ha of forest. Finally, in 1997 the maximum area of land that could be restituted was increased to 150 ha.

It is expected that around 400 000 ha of state land will be left unprivatized after the complete finalization of the land reform process.<sup>13</sup> Most of this State land reserve will be agricultural land in rural areas, often divided into small and badly shaped

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<sup>10</sup> National Land Service under the Ministry of Agriculture (2008) (information brochure). P.8.

<sup>11</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 39.

<sup>12</sup> Daugaliene, V. (2007): *Legal framework of land management in Lithuania after 1990*. Conference paper for UNECE WPLA workshop in Munich, May 2007, p. 5-6.

<sup>13</sup> *National Land Consolidation Strategy for Lithuania* (2006), p. 3.

fragmented parcels. It is furthermore expected that the land reserve that is often leased out to private farmers will be subject to future privatization.

According to the most recent data (2011), the average agricultural holding size is 5.3 ha and the average size of agricultural parcels is 2.9 ha. Thus, the average number of parcels per holding is around 1.8.<sup>14</sup> In 2005, 53 percent of the total utilized agricultural area (UAA) was used through lease agreements.<sup>15</sup>

### 3.1.2 Latvia

In Latvia, landownership rights were restituted on the basis of the ownership situation as it was on 21 July, 1940.<sup>16</sup> Cadastral maps and the Land Book records from the period of 1924-1940 were used as the basis for restitution.<sup>17</sup> Latvia restituted land exclusively to native Latvians. Land reform in Latvia has been regulated by a number of laws beginning with the June 1990 *decision on agrarian reform in the Republic of Latvia* of the Supreme Soviet of the Republic of Latvia. This stated that the former landowners and their heirs, together with land users, could submit claims for the allocation of land for use. In 1994, the *law on privatization of state and municipal property* was adopted. The deadline for submission of restitution claims was set for November 1996.

The land reform in Latvia had two phases. First, land use rights (not ownership rights) were granted to the claimants by local Land Commissions. Second, landownership rights were restituted to the former owners or their legal heirs or users who had the right to purchase land by paying with vouchers. Vouchers were introduced as compensation and were based on the time each citizen had lived in Latvia. Vouchers were freely tradable at a market price. Those who in the initial stage were given the use rights to agricultural land had in the second stage the right to purchase the state land for the value of the property.

The former owners or their heirs had their original holdings returned where possible. Alternatively, they could choose to receive an equivalent landholding of similar value in a different location, or to receive compensation in money for the value of the lost property. Compensation has been estimated on the basis of the area of land, type of land use and location of the property. Agricultural land was restituted up to a maximum limit of 100 ha. In Latvia the claims for restitution exceeded the land available by more than 25 percent.<sup>18</sup>

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<sup>14</sup> Audrius Petkevicius (Director, Land Policy Department, Ministry of Agriculture, Lithuania), personal communication, December 2012.

<sup>15</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>16</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 38.

<sup>17</sup> ACE project (1999): *The Development of Land Markets in Central and Eastern Europe – Final Report*. P. 152-156.

<sup>18</sup> Meyers, W.H and Kazlauskienė, N. (1998):. *Land reform in Estonia, Latvia and Lithuania – A comparative analysis*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 95.

According to the most recent data (2012), the average size of agricultural land parcels in Latvia is relatively large, around 7.3 ha.<sup>19</sup> Data on the average size of agricultural holdings and average number of parcels per holding are not available. In 2005, 24 percent of the total UAA was used through lease agreements.<sup>20</sup>

### 3.1.3 Estonia

In Estonia, the Estonian Land Board, together with local government, has been responsible for the land reform process. At the end of 2008, almost 90 percent of the land eligible for restitution and privatization had been registered in the cadastre.<sup>21</sup> In Estonia, the objective of land reform was broader than in the two other Baltic countries. Restitution to former owners was one objective, but so too was the privatization through sale of state land, as well as the transfer of state land into the ownership of local government, and the determination of the land to be retained in State ownership.<sup>22</sup> These different objectives of land reform were all part of the same process. As a result, the land reform process was probably more complicated in Estonia than in the other two countries.<sup>23</sup> Many parcels were claimed by more than one owner.

Unfortunately, data on the average size of agricultural holdings and on the average number of parcels per ha are not available for Estonia. In 2005, 54 percent of the total UAA was used through lease agreements.<sup>24</sup>

### 3.1.4 Conclusions

After more than 20 years of land reform in Lithuania, Latvia and Estonia, the land reform process is slowly coming to an end. The three Baltic countries chose to reconstitute the land rights to agricultural and forest land as they were in 1940 before WWII and the subsequent occupation by the Soviet Union. In addition, from 1989, state land was privatized to individuals in the form of household plots, first through the allocation of use rights and later through purchase from the State. When restitution in physical parcels was not possible, the claimants were entitled to receive other agricultural state land of equivalent value or financial compensation. In Estonia, privatization of state land through sale was an integrated part of the land reform process and equally important as the restitution to former owners. This was not the same case in Latvia and Lithuania, although in Latvia the land users were given the right to purchase the state land they used.

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<sup>19</sup> Daiga Parsova (Ministry of Regional Development and Local Government, Latvia), personal communication.

<sup>20</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>21</sup> Jürgenson, E and Maasikamäe, S. (2009): *Progress of Land Reform in Estonian Rural Municipalities – Results of Preliminary Study*. Rural Land Landscape trends. P. 126.

<sup>22</sup> Jürgenson, E et al. (2010): *The Impact of Land Fund Characteristics on the Land Reform Results in Estonian Rural Municipalities*. *Tehnologijos Mokslai*. P. 65.

<sup>23</sup> Meyers, W.H and Kazlauskienė, N. (1998): *Land reform in Estonia, Latvia and Lithuania – A comparative analysis*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 95.

<sup>24</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

The restitution of land to the pre-WWII owners and their successors in the three Baltic countries resulted, as intended, in a complete breakup of the large-scale collective and state farms, and in an ownership structure similar to that before 1940. In Lithuania in 2011, the average size of an agricultural holding, defined as the agricultural land owned by one entity (i.e. natural or legal person), was 5.3 ha, often divided into 2-3 parcels.<sup>25</sup> In Lithuania in 2005, 53 percent of the utilized agricultural land (UAA) was used through lease agreements and not by the owners.<sup>26</sup> Today, farm structures in the Baltic countries are dominated by a mix of large corporate farms and medium-large sized family farms. Household plots are often used for subsistence farming. Land fragmentation, to a moderate degree, has emerged as a side effect of land reform.

### 3.2 The Central European countries

After 1989, the Central European countries, the **Czech Republic, Slovakia, Hungary, Poland** and **Eastern Germany**, began a transition towards a market economy. Eastern Germany became a member of the European Union already in 1990 through German reunification. The Czech Republic and Slovakia became independent in 1993 when Czechoslovakia peacefully split into the two countries. The Czech Republic, Slovakia, Hungary and Poland all became members of the European Union in 2004.

The countries chose approaches to land reform that were sometimes similar and at other times significantly different.

Czechoslovakia became an independent state in 1918 after WWI. Before WWII, the typical farm in what is now the Czech Republic cultivated 20-50 ha. In Slovakia, where the Napoleonic code for inheritance was applied, the typical farm size was much smaller, 2-5 ha.<sup>27</sup> After WWII, in 1946 the new left-wing government organized a land reform where land was expropriated from large estates, the Roman Catholic church and from German farmers (in Sudeten) without compensation. This land was divided into small units and sold to small-scale farmers. In 1948, the communist government took power and the collectivization of the agricultural sector started from the beginning of the 1950s through the creation of two different types of large-scale farms: state farms and agricultural production cooperatives.<sup>28</sup> The agricultural land that was used to form the state farms was expropriated or otherwise nationalized from

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<sup>25</sup> Audrius Petkevicius (Director, Land Policy Department, Ministry of Agriculture, Lithuania), personal communication.

<sup>26</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>27</sup> Kabat, L. & Hagedorn, K, (1997): *Privatisation and decollectivisation policies and resulting structural changes of agriculture in Slovakia*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 231.

<sup>28</sup> Travnicek, Z. et al, 2002: *Land Fragmentation and Land Consolidation in the Agricultural Sector – A Case Study from the Czech Republic*. FAO 2002. P. 3-4.

the private owners. This amounted to 39 percent of the agricultural land.<sup>29</sup> With the cooperatives, in most cases the land of the members of the cooperatives was never legally expropriated and the private “owners” often remained on the land registers. However, the private owners were often forced to give up individual farming and join the cooperatives with their land. During the 1970s, cooperatives and state farms were merged into larger agricultural units with an average farm size of around 3 000 ha.

### 3.2.1 Czech Republic

In the Czech Republic (then Czechoslovakia), the land reform process began after the adoption of the *land law* in 1991 and *the collective farm transformation law* in 1992. The chosen land reform approach was to reconstitute the ownership structure as it was in 1948 before the communist government took power, but after the land reform that was conducted 1946-7. Had the reference date been 1945 rather than 1948, this would have implied restituting land to Sudeten Germans who emigrated after WWII.<sup>30</sup>

As land and other property of the members of the cooperatives were often not formally expropriated, in most cases after 1991 the formal owners and their successors were able to take possession of their land through an informal procedure of withdrawal of their land from the cooperative farms, and without any formal or legal procedures.

With the state farms, where in most cases the land had been formally expropriated from the former private owners, a formal and legal restitution procedure was conducted. The Land Fund was established in 1992 and, in the initial stage of the restitution process, the administration of the state agricultural land of the state farms was transferred to the Land Fund to enable restitution of ownership rights to the former owners. Only Czech citizens were eligible to have land restituted and initially restitution was also limited to persons with permanent residence in the country. The last restriction was lifted by the Constitutional Court in 1995.<sup>31</sup> In most cases, the restitution procedure for state agricultural land was administrative. If the Land Fund recognized the claim, the land was given back and the land rights were registered. Only in cases of disagreements about the legitimacy or extent of the claim were the Ministry of Agriculture or the Court involved. If physical restitution was not possible, the eligible person was compensated. In total, 231 000 restitution claims were submitted between 1991 and 2003, of which 98.6 percent were resolved by the end of 2003.<sup>32</sup>

Even though from 1991 the *land law* opened up the possibility for private family farming, the land reform process in the Czech Republic resulted in farm structures still completely dominated by large-scale corporate farms. What happened in practice was often that the large collective and state farms broke up into smaller (but still

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<sup>29</sup> Ratinger, T & Rabinowicz, E: *Changes in farming structures in the Czech Republic as a result of land reform and privatization*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. 1997. P. 63-65.

<sup>30</sup> Swinnen, J & Mathijs, E. (1997): *Agricultural privatisation, land reform and farm restructuring in Central and Eastern Europe: A comparative analysis*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 341.

<sup>31</sup> Ibid. p. 70.

<sup>32</sup> Trnka, J. & Pivcova, J. (2005): *The situation of land management and reparation in the Czech Republic*. Paper for FAO land consolidation workshop, Prague 2005.

large) co-operative farms and continued “business as usual” through lease agreements with the private landowners who had withdrawn their land from the cooperatives or had their land restituted.<sup>33</sup> In 2005, as much as 86 percent of the total utilized agricultural land was leased from the owners.<sup>34</sup>

The land reform process in the Czech Republic resulted in the re-establishment of the highly fragmented ownership structure that existed before 1948, with an average size of agricultural parcels of 0.4 ha.<sup>35</sup> Co-ownership is widespread and this “hidden” internal fragmentation continues through inheritance. Many of these co-ownership issues have not been resolved between the co-owners. Thus, the usage and the ownership of the agricultural land have been almost completely separated. Most of the owners who got back the land after the land reform process have no interest in agriculture and, due to the fragmented ownership and widespread co-ownership, they often have in practice only the option to continue to lease out the land to the large-scale corporate farms that replaced the collective or state farm in the area. This is further aggravated because there is no evidence on the ground of the parcels, and no boundary data exists.<sup>36</sup>

In 2007, about 0.45 million ha (or 13 percent of the utilized agricultural land) remained under the administration of the Land Fund. Of this, around 0.26 million ha were under privatization through sale.<sup>37</sup> According to the *land sale act*, municipalities and leaseholders have preference when state land is privatized through sale.

### 3.2.2 Slovakia

In Slovakia (then Czechoslovakia), land reform followed the same track as in the Czech Republic until the two countries were created in 1993. Land reform began after the adoption of the *land law* in 1991 and the *collective farm transformation law* in 1992. The chosen land reform approach was to reconstitute the ownership structure as it was in 1948 before the communist government took power but after the land reform that was conducted 1946-7. As in the Czech Republic, land and other property of the members of the cooperatives were often not formally expropriated and the formal owners and their successors were, in most cases, able to take possession of their land through an informal procedure by withdrawing their land from the cooperative farms, and without any formal or legal procedures.

The state agricultural land was restituted in a formal process. The deadline to claim formal restitution was the end of January 1993. The actual possessor of the land (often a cooperative farm or the state) had 60 days to respond to the claim and conclude a contract to return the property.<sup>38</sup> In total, around 124 000 original owners claimed

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<sup>33</sup> Travnicek, Z. et al, (2002): *Land Fragmentation and Land Consolidation in the Agricultural Sector – A Case Study from the Czech Republic*. FAO. P. 4.

<sup>34</sup> Swinnen, J & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>35</sup> Ibid. p. 26.

<sup>36</sup> Dale, P & Baldwin, R, (2000): *Lessons Learnt from Emerging Land Markets in Central and Eastern Europe*. Conference paper from FIG Working Week, Prague 2000. P. 3.

<sup>37</sup> Ciaian, P. et al., (2012): *Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries*. Factor Markets Working Paper no. 14. P. 20.

<sup>38</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 36.

restitution of 180 000 ha in total.<sup>39</sup> The size of the claimed land was less than two ha on average.

The cooperatives had until the beginning of 1993 to transform into private legal entities with transparent ownership relations.<sup>40</sup> Often new “private” cooperatives were formed and in practice they continued the farming activities of the previous socialist cooperatives through leasing agreements with the private owners who had withdrawn their land from the former cooperatives or who had got the land rights back through restitution. The agricultural policy did not encourage the breakup of the large-scale corporate farms.

The farm structure in Slovakia is still completely dominated by large-scale corporate farms that took over after the socialist cooperatives. In 2005, as much as 91 percent of the UAA was farmed on leased land.<sup>41</sup> This is the highest share in all 25 countries in the study.

The land reform process in Slovakia resulted in the re-establishment of the highly fragmented ownership structure that existed before 1948, with an average size of agricultural land parcels of 0.45 ha and an average of 12-15 co-owners for each parcel.<sup>42</sup> Dale and Baldwin (2000) state that “a single field of twenty hectares may have more than three hundred owners and over a thousand co-owners”.<sup>43</sup> The co-ownership of land is typically a bottleneck for land market development as it is often impossible to dispose of the land because of the need for agreement of all the co-owners. So the leasing out to the large corporate farms that succeeded the cooperatives and state farms continues. In addition, Slovakia has severe problems with unknown owners of agricultural land.

In 2006, seven percent of UAA remained state owned, and with a further 438 000 ha of UAA (as much as 23 percent) with unknown ownership. Both categories are managed by the Land Fund and are often leased out to the large corporate farms.<sup>44</sup> State land may be privatized through sale, but this is not the case of land with unknown ownership.

The ownership of agricultural land is highly fragmented as described above. The use structure, however, is not fragmented at all as the large-scale corporations continue to operate on the large fields established after WWII, and is now based on lease agreements with often hundreds of private owners of small fragmented agricultural parcels. In this case, fragmentation is mainly a problem for the land registers and for

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<sup>39</sup> Kabat, L. & Hagedorn, K, (1997): *Privatisation and decollectivisation policies and resulting structural changes of agriculture in Slovakia*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 229-232 and p. 253.

<sup>40</sup> Ibid. P. 229-232 and p. 248.

<sup>41</sup> Swinnen, J. & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>42</sup> Lazur, R., (2005): *Slovakia case study – land consolidation in Slovakia*. Paper for FAO land consolidation workshop, Prague 2005.

<sup>43</sup> Dale, P & Baldwin, R, (2000): *Lessons Learnt from Emerging Land Markets in Central and Eastern Europe*. Conference paper from FIG Working Week, Prague 2000. P. 4.

<sup>44</sup> Ciaian, P. et al., (2012): *Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries*. Factor Markets Working Paper no. 14. P. 20.

private farmers who may want to establish small family farms based on owned land but it is not a practical problem for the agricultural production on the land.

### 3.2.3 Hungary

Before WWII, the farm structures in Hungary were characterized by an extreme concentration of land in large estates. Some 0.1 percent of landowners owned 30 percent of all agricultural land and there were 1.8 million landless peasants.<sup>45</sup>

After WWII, the first wave of land reform in Hungary began as early as March 1945, and all estates larger than 575 ha were expropriated and other farms were reduced to a maximum of 57 ha by confiscation. Livestock and production assets were confiscated with the land. In total, nearly 3 million ha were confiscated and distributed to 725 000 landless workers and small farmers. The new holdings were limited to 8.5 ha.

In 1948, the second wave of land reform began when 170 000 ha of leased land were transferred from large farmers to farm workers, small farmers and cooperative farms for low-rent payments. The transition from individual farming to cooperatives and state farms was a lengthy and gradual process. In 1950, cooperatives and state farms controlled 14 percent of the total agricultural land. In 1966, this figure had risen to 86 percent. In Hungary, however, the socialist reform never resulted in the total elimination of private ownership of agricultural land. Many individual farmers joined the cooperatives with their land, some by force and others participated voluntarily. In many cases the cooperatives purchased the land when the members died or retired from farming. In addition, five percent of the agricultural land remained in private farms outside the cooperatives and continued to be used for individual farming. Also the members and workers in the cooperatives were allowed to farm individual household plots of about 0.5 ha on average through use rights from the cooperatives or state farms.

The land reform process in Hungary is unique among the Central and Eastern European countries, and it began with the adoption of the *compensation law* in 1991. According to the law, Hungarian citizens whose property was expropriated after June 1949 are entitled to compensation.<sup>46</sup> The *compensation law* covered not only agricultural land but all assets nationalized from the citizens between 1949 and the beginning of the transition in 1990. Thus, Hungary decided for compensation instead of physical restitution and the private owners who had land expropriated without compensation between 1945 and 1949 were not compensated. In addition to compensating former landowners, land was distributed to the current groups of users, such as landless cooperative members and workers (employees) of cooperatives and state farms.

The instrument for compensation was coupons or vouchers. The value of the compensation vouchers used “gold crowns”, a traditional Austro-Hungarian unit of land quality. The vouchers could be used to purchase state property such as apartments, shares in state enterprises and also agricultural land, and the vouchers could be freely traded on the market. The right to purchase agricultural land, however,

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<sup>45</sup> Csaki, C. & Lerman Z., (1998): *Land reform and farm restructuring in Hungary during the 1990s*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 226.

<sup>46</sup> Ibid. P. 228-230.

was limited to the original receiver of the voucher. According to the *cooperative transition law* adopted in 1992, cooperative farms were required to set aside for compensation purposes the land acquired by the cooperatives after June 1949. Then the land was auctioned in individual parcels and purchased with the vouchers as payment. Former landowners who wanted to get back agricultural land participated in the auctions. The vouchers received by the former owners were based on an estimated value of the lost property.<sup>47</sup> For a property with a value up to 200 000 forint (around 10 ha of average agricultural land), the property was compensated 100 percent, and with a digressive scale of compensation thereafter.

In addition to compensation of the former landowners, land was “sold” to landless members of the cooperatives and employees. Cooperative members were allocated 30 gold crowns and workers received 20, which equals respectively 1.5 ha and 1 ha of average quality of agricultural land. This land was distributed without auction and “paid” for with the gold crown vouchers. In fact, the “sale” of state land to landless cooperative members and employees was similar to the distribution in physical parcels which took place in a number of other countries in Central and Eastern Europe (e.g. Romania).

The compensation programme involved 5.6 million ha in total.<sup>48</sup> Some 2.7 million ha were transferred to private ownership through the compensation auctions. In addition, 1.5 million new owners (i.e. landless cooperative members and employees) received three million ha through sale of state land for vouchers / distribution. The remaining collective farm land was distributed to the members of the collective farms. Hungary is different from most of the other study countries as only natural persons are allowed to own agricultural land.<sup>49</sup> Ownership of agricultural land is limited to 300 ha.

In Hungary, the outcome of the land reform is a highly fragmented ownership structure, often with relatively small parcels in long and thin strips. Farmers purchasing land with their vouchers at the auctions would often end up with 2-3 ha split into several narrow parcels in different locations.<sup>50</sup> The average size of agricultural holdings is 1.1 ha.<sup>51</sup> Data on the average number of parcels per holding are not available. Around 10 percent of all agricultural parcels have more than one owner (i.e. held by co-owners).

The farm structures in Hungary today are more mixed than in most of the study countries with the presence of both small-scale subsistence family farms; medium- and large-sized commercial family farmers; and large corporate farms operating fully

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<sup>47</sup> Mathijs, E. and Meszaros, S. (1997): *Privatisation and restructuring of Hungarian agriculture*. In Swinnen, J. et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 164.

<sup>48</sup> ACE project (1999): *The Development of Land Markets in Central and Eastern Europe – Final Report*. P. 134-135.

<sup>49</sup> Mathijs, E. and Meszaros, S. (1997): *Privatisation and restructuring of Hungarian agriculture*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 168.

<sup>50</sup> Lerman, Z. et all, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexinton Books. P. 89.

<sup>51</sup> Andras Ossko (Deputy Director, Budapest Land Office), personal communication, December 2012.

on leased land. Leasing of land is common and 59 percent of the UAA in Hungary in 2005 was farmed on leased land.<sup>52</sup>

After agricultural land was allocated to private owners in the land reform process in the first half of the 1990s, many of the owners or their heirs left the rural areas and are now living in urban areas and are not involved in agriculture. The land market in Hungary is weak and the land of the small agricultural holdings is often leased out or simply abandoned.<sup>53</sup> Land prices are low due to weak demand and the absent landowners often leave the land abandoned while they wait for higher land prices.

### 3.2.4 Poland

In Poland, the starting point for land reform varied from the situation in most of the other study countries because, throughout the socialist era, as much as 75 percent of the agricultural land remained in private ownership, as well as in private use, in the form of individual family farms.<sup>54</sup>

Poland's borders changed dramatically after WWII following the decisions made at the Potsdam Conference in 1945, and the eastern part of the territory was annexed by the Soviet Union (today being part of Belarus, Ukraine and Lithuania). In return Poland received former German territory east of the Oder-Neisse line in what is today the western and northwestern part of Poland.

As early as September 1944, a post-WWII land reform began in Poland, during which agricultural and forest properties larger than 50 ha (and in some cases 100 ha) were expropriated without compensation. The same happened with land belonging to the Roman Catholic Church. After taking over the former German territories, land belonging to Germans was confiscated by the Polish state. About six million ha were distributed to landless farm workers and the private owners of small family farms. Only in the former German territories in the northern and western parts of Poland were state farms established on about 20 percent of the total agricultural land in the country. The post-WWII land reform created and maintained a highly fragmented farm structure in the southern and eastern part of Poland.<sup>55</sup> Even though the agricultural land was privately owned and used, the land market was "frozen" as a result of high transaction costs and complicated administrative transaction procedures. From 1982 onwards, Poland applied land consolidation as an instrument to address the structural problems with land fragmentation and small farm sizes, mainly in the southern and eastern regions of the country, which have the most severe fragmentation problems.<sup>56</sup> After EU accession in 2004, land consolidation has been funded under the Rural Development Programme.

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<sup>52</sup> Swinnen, J. & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>53</sup> Burger, A. (2005): Why is the issue of land ownership still a major concern in East Central European (ECE) transitional countries and particularly in Hungary? *Land Use Policy* 23 (2006). P. 572-573.

<sup>54</sup> ACE project (1999): *The Development of Land Markets in Central and Eastern Europe – Final Report*. P. 162-170.

<sup>55</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 74.

<sup>56</sup> Zadura, A. et al (2008): *Land Bank and Land Consolidation (Polish case)*. Workshop paper for FAO land consolidation and land banking workshop in Prague, June 2008.

The legal foundation for land reform in Poland was the adoption of the *law on utilization of agricultural property of the state treasury* in October 1991. The collectivization efforts in Poland during the socialist era had largely failed due to the post-WWII land reform that established a strong structure of small-scale family farms and thus resistance towards collectivization. For this main reason, Poland made a political decision not to reconstitute the ownership rights to the former owners who lost their land rights after WWII through a land restitution programme as in the case of the other Central European countries.<sup>57</sup> Asking the small-scale farmers to give up the land they had received in the 1940s and 1950s and farmed since then would not have been politically feasible. Another reason for not restituting land to former owners in Poland was that, to a great extent, it would have led to restitution to foreigners, i.e. Germans who emigrated after WWII.<sup>58</sup> Instead, claims for restitution of lost property rights are treated under the existing civil law on a case-by-case basis.<sup>59</sup>

Poland is going through a process of privatizing the 20 percent of the agricultural land of the state farms. The Agricultural Property Agency (APA) was established in 1992 to manage this process. In total, 4.7 million ha from liquidated state farms were transferred to the management of APA and were subsequently privatized. The land privatization approach was to sell the state land in auctions and through direct sale to eligible groups. Poland chose to try to use the privatization process to improve the local farm structures by giving preference for purchase to specific groups, mainly commercial family farms. According to the privatization law, the former owners or their heirs have the first right to purchase the land offered for sale by APA. The current leaseholders are granted the second right to purchase. Land can also be sold in restricted auctions to family farmers, often resulting in sales prices much lower than the normal market price.<sup>60</sup>

By the end of 2011, 2.2 million ha had been privatized through auctions and direct sale, and 1.46 million ha of the remaining 1.95 million ha had been leased out to private farmers.<sup>61</sup> The privatization process has been hampered by restitution claims submitted under civil law for 450 000 ha in the portfolio of APA. Until 2010, the sale was blocked until the civil restitution cases had been settled. However, from 2010 the sale of state land with restitution claims has been possible with a first right to buy for the former owners and their successors at the normal market price. If the former owner refuses purchase, the land is offered for sale to the leaseholder if the lease contract has lasted for at least 3 years. If the leaseholder also refuses, the property is sold through a tender procedure.

In addition, APA has tasks according to the *law on formation of agricultural system*, which was adopted in 2003. APA also has the function of a State Land Bank and can

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<sup>57</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 91.

<sup>58</sup> Swinnen, J & Mathijs, E. (1997): *Agricultural privatisation, land reform and farm restructuring in Central and Eastern Europe: A comparative analysis*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 341.

<sup>59</sup> Cwiok, T. (2010): *There are many reasons why Poland is not likely to pass an act to restore property to prewar owners or their heirs*. American Investor magazine, 18 June 2010.

<sup>60</sup> Zadura, A. et al (2008): *Land Bank and Land Consolidation (Polish case)*. Workshop paper for FAO land consolidation and land banking workshop in Prague, June 2008.

<sup>61</sup> Jolanta Gorska (APA), personal communication, December 2012.

not only sell state land but can also purchase agricultural land from private owners. When state land is sold, APA has a pre-emption right to buy back the land if the private buyer wants to sell the land within five years from the purchase from the state. The purpose is to reduce speculation and to pursue the structural policy to support the development of mainly commercial family farms.

The result of the land reform process in Poland has, for two main reasons, not fundamentally changed the farm structures that existed before 1990. First, the reform has not affected the 75 percent of the agricultural land that was privately owned and used in individual family farms during the socialist regime. Second, only less than half of the 20 percent of the total agricultural land managed by APA has so far been privatized. The farm structures vary considerably depending on the region. In the southern and eastern regions, small and fragmented family farms with an average farm size of less than six ha dominate. In the northern and western regions, medium-sized commercial family farms dominate, with an average farm size of around 20 ha.<sup>62</sup> In 2010, the private farms utilized an average of 9.8 ha, of which 8.6 ha was agricultural land. For Poland, only 22 percent of the UAA is used through lease agreements.<sup>63</sup> Data on the average size of agricultural holdings and the average number of parcels per holding is not available.

### 3.2.5 Eastern Germany

In Eastern Germany, the transition towards a market economy had a different starting point than all other study countries, as the former German Democratic Republic (GDR) became a member of the European Union as early as 1990 through German reunification.

Before WWII, Eastern German farm structures were dominated by family farms, with an average farm size of 10.5 ha.<sup>64</sup> After WWII, Eastern Germany was occupied by the Soviet Union during 1945-9. In this period, agricultural land belonging to estates larger than 100 ha was expropriated without compensation. The same happened with agricultural land and other properties belonging to those who were said to be “Nazi-leaders” and “war criminals”.<sup>65</sup> A land reserve of 3.3 million ha was established from the confiscated land and land owned by the state before WWII. From this land, 2.2 million ha were distributed to the so-called “new settlers”, i.e. farmers who were refugees from former Eastern provinces of Germany, which had become part of Poland and Russia after the war. On average, these farmers were allocated eight ha. The remaining land reserve was used to establish state farms.

After the establishment of the GDR, a further 700 000 ha were confiscated in 1952-3 during the first wave of collectivization. In most cases, this land was handed over to

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<sup>62</sup> Zadura, A. et al. (2008): *Land Bank and Land Consolidation (Polish case)*. Workshop paper for FAO land consolidation and land banking workshop in Prague, June 2008.

<sup>63</sup> Swinnen, J. & Vranken, L. (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>64</sup> Bromley J. and Bromley D. (2012): *Looking East: Reclaiming land and legacy in the former GDR*. IAMO. P.63.

<sup>65</sup> Beckmann, V. and Hagedorn, K. (1997): *Decollectivisation and privatisation policies and resulting structural changes of agriculture in Eastern Germany*. In Swinnen, J. et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 105-129.

agricultural cooperatives founded in those years. Private landowners and farmers were forced to join the cooperatives with their land. In most cases the landowners kept the formal ownership rights to the land. This accounted for as much as about 70 percent of the agricultural land in GDR. The use rights, however, were given completely to the cooperatives. The cooperative farms gradually became dominant in the socialist agricultural structure. By 1989, 4 500 collective farms cultivated 82 percent of all agricultural land and held 75 percent of the livestock. State farms were only of minor importance and cultivated eight percent of the land and held 16 percent of the livestock in 1989. The remaining 10 percent of the agricultural land was, after four decades of collective farming, still operated by small private family farms or used in private household plots with an average size of 0.75 ha.

Germany chose an approach to land reform and land privatization in Eastern Germany where different instruments were applied at the same time. The legal basis for the process was the adoption of the *agricultural adjustment law* and the *law governing unsolved property issues* as well as the *unification treaty* in 1990. The law has been amended several times during the 1990s. In 1992, the BVVG (Bodenverwertungs- und -verwaltungs GmbH) was founded as the implementing agency responsible for management and privatization of the state-owned agricultural and forest land.<sup>66</sup>

The “simplest” form for land reform was the case where the members of the cooperative farms who had kept the formal ownership rights withdrew from the collective farms with their share of the assets. For around 55 percent of the agricultural land, the use rights were returned to the formal owners without involving BVVG.<sup>67</sup>

The *law governing unsolved property issues* contained the main provisions for the restitution of agricultural land where formal ownership rights had been lost between 1949 and 1989, and also where land was expropriated between 1933 and 1945 (e.g. Jewish property). However, the political decision, which was strongly debated, was to not reconstitute the land confiscated during the occupation by the Soviet Union in 1945-9. Instead, the former owners who had lost their property in the first years after WWII were offered the opportunity to buy back a certain amount of agricultural (and/or forest) land at a reduced price through the so-called *land purchase programme*, which was launched after the adoption of the *indemnification and compensation act* in 1994.

In total, approximately 3.2 million ha of state agricultural and forest land were transferred in 1992 to the management of BVVG and were subsequently privatized. From 1992-2012, approximately 300 000 ha of agricultural and forest land were restituted to the former owners, mostly during the 1990s. Former owners were given a deadline of the end of 1992 to claim land for restitution. If possible, the programme restituted the original land to the former owners. If that was not possible, the claimants were entitled to compensation. The land claimed for restitution could not be sold until a decision had been made about the claim, which could take several years. In the meantime, BVVG leased out the land.

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<sup>66</sup> Dells, K. (2008): *Management and Privatization of State-Owned Agricultural Land – Case Studies from Eastern Germany and Ukraine*. Conference paper for FIG/FAO/CNG Seminar in Verona, Italy, September 2008. P. 1-7.

<sup>67</sup> Katja Dells (BVVG), personal communication.

In 1993, it was decided to implement the privatization in three phases over a longer period of years. This change was motivated by the general uncertainty regarding the reorganization of ownership, and perhaps most importantly, the political wish to avoid the consequences that a rapid large-scale privatization would have on the weak land market, i.e. a predicted severe drop in land prices.

In the first phase (1992-6), the land was not sold but leased out for the short and long term (up to 12 years). In the second phase (1996-2010), the *land purchase programme* was implemented, allowing sale of state agricultural and forest land at reduced prices to eligible persons who, in addition to the former owners who lost their properties during 1945-9, also included citizens of the former GDR who had been involved in agriculture. By the end of 2011, 1.2 million ha in total had been sold at reduced prices.<sup>68</sup> In the third phase (from 2005 and still ongoing), the remaining land is being sold at normal market price through tenders. By the end of 2011, 1.34 million ha in total had been sold at market prices, and 291 000 ha of agricultural land and 66 000 ha of forest land were still to be privatized.

The farm structure in Eastern Germany after 20 years of land reform is dominated by medium-sized family farms and large-scale corporate farms, often the successors of the cooperative farms. In 2005, 64 percent of the total utilized agricultural land in Germany was used through lease agreements.<sup>69</sup> The figure for Eastern Germany alone is not available. Data on the average agricultural holding size as well as the average number of parcels per holding are also not available for Eastern Germany. However, a moderate level of fragmentation of landownership has been a side-effect of land reform, especially arising from the withdrawal of land from the cooperative farms and land restitution.

### 3.2.6 Conclusions

Despite the fact that the Czech Republic, Slovakia, Hungary, Poland and Eastern Germany had relatively similar farm structures before WWII, and that all countries implemented land reform immediately after WWII (where agricultural land from large estates was confiscated and distributed or sold to landless peasants, war refugees and small farmers), the land reform approaches chosen in the countries after 1989 did not follow the same path. Hungary and Poland stand out from the other three.

In the Czech Republic, Slovakia and Eastern Germany, for most of the agricultural land that was collectivized and included in the cooperatives in an often forced process, the owners never lost the formal rights of landownership and remained on the land registers. In many cases, the land reform approach after 1989 was simply to withdraw from the cooperatives with the land and other assets that had been affected by the collectivization process that took place, often four decades earlier.

The above mentioned three countries have been through a process of restitution of ownership rights to agricultural land that were formally lost during collectivization. However, none of the countries has restituted agricultural land confiscated in the land

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<sup>68</sup> BVVG (2011): *Company Data 2011*.

<sup>69</sup> Swinnen, J. & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

reforms implemented immediately after WWII but only the land that was lost after the communists came to power in the late 1940s. Despite the political aim of justice and “doing right what was done wrong”, it seems that it has not been politically feasible to “roll back” the post-WWII distribution to numerous small family farmers, the landless and war refugees. If restitution of the property was not possible in the form of the original boundaries, the claimants had the opportunity to receive other agricultural land of the same value. Compensation in money for the value of the property was also an option.

Hungary and Poland chose different approaches to land reform compared with the other three countries. In Poland, the collectivization had failed and 75 percent of the agricultural land was both owned and used by small family farms during the socialist era. In the other four countries this was less than 10 percent. Most of the 20 percent of agricultural land in Poland that was used by the state farms was confiscated from the former German owners after WWII. Thus, a relatively small part of the population had a wish for restitution and a mass restitution programme was never adopted in Poland. Instead restitution claims are being dealt with by the Civil Courts. Poland has privatized the state land through sale at tenders or to eligible groups, such as the former owners or leaseholders, and often for prices below market price. In this way Poland has aimed at using the privatization process to improve the agricultural structures.

The land reform process in Hungary is unique among all 25 study countries. Hungary decided on compensation rather than restitution. In addition to compensation to former landowners, land was distributed to the current groups of users, such as landless cooperative members and employees of cooperatives and state farms. The instrument for compensation was vouchers. The state agricultural land was sold at auctions held in the rural communities where the land could be purchased using compensation vouchers.

The land reforms from 1989 and onwards resulted in the Czech Republic and Slovakia having very little change in the farm structures which are still dominated completely by large corporate farms, often the successors of the cooperatives and state farms. However, the land reforms in the two countries resulted in the re-establishment of the highly fragmented ownership structure that existed before 1948 and in the extensive co-ownership of agricultural land. The owners who withdrew from the cooperatives or had their land restituted often have little interest in farming and around 90 percent of the UAA is used through lease. Despite the extreme fragmentation of ownership, the large fields established during collectivization still exist.

Large corporate farms also dominate the farm structures in Eastern Germany where commercial family farms also play a big role. In Poland and Hungary, the farm structures are mixed with small and fragmented family farms dominating in some regions, and larger commercial family farms and corporate farms dominating in other regions.

### 3.3 Balkan countries except those of former Yugoslavia

In 2003, **Albania**, along with other Western Balkan countries, was identified as potential candidate for EU membership. In 2012, the European Commission recommended that Albania shall be granted EU candidate status, subject to completion of key measures in certain areas. Both **Romania** and **Bulgaria** became EU member countries in 2007. Albania, Romania and Bulgaria chose different approaches to land reform in the 1990s.

#### 3.3.1 Albania

The approach chosen for land reform in Albania has its roots in the landownership pattern as it was when Albania became independent in 1912. By then most of the agricultural land was owned by only a few families. All land owned by the Ottoman State and the Sultan was confiscated by the Albanian state after the independence.<sup>70</sup> A land reform in the 1920s, which aimed at distributing four ha of agricultural land to each rural family, failed because of strong resistance from large landlords. Instead the Albanian King's government allowed large landowners and government officials to acquire even more land. In the 1930s a few thousand ha of mainly State land was distributed to small and landless farmers. However, this did not have much effect on large landowners: a relatively few large landlords owned most of the fertile land in the plains in a feudal system when the communist regime took control of Albania in 1944.

In 1945, the communist government nationalized forests and pastures. Agricultural land was not nationalized in the first stage and in fact the 1946 Constitution guaranteed the private ownership of agricultural land with the exception of large estates.<sup>71</sup> The legal attitude towards private landownership shifted gradually and from 1976 all agricultural land was nationalized and private ownership was abolished.

After the communist regime fell in 1990, the land reform process in Albania was launched in 1991 with the adoption of the *law on land*. In order to avoid re-establishing the pre-1945 feudal owner structure, and at the same time respond to food shortages and hunger in rural areas, the agricultural land was distributed in a quick land reform process to the rural families who used to work in the collective and state farms.<sup>72,73</sup> In only 18 months, 700 000 ha of arable land that used to be controlled by 420 collective and state farms were distributed to nearly 500 000 family farms, separated into nearly 2 million parcels.<sup>74</sup> In 1993, a land registry, the Immoveable Property Registration System (IPRS), was established and the registration of the distributed parcels and their ownership began.

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<sup>70</sup> Cunga, A and Swinnen, J (1997): *Agricultural privatisation, land reform and farm restructuring in Albania* in Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 2.

<sup>71</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 64-65.

<sup>72</sup> USAID. (2011). *USAID Country Profile – Property rights and resource governance – Albania*. P. 3.

<sup>73</sup> Swinnen, J & Mathijs, E. (1997): *Agricultural privatisation, land reform and farm restructuring in Central and Eastern Europe: A comparative analysis*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 363.

<sup>74</sup> Bloch, P (1998): *Picking up the pieces – consolidation of Albania's radical land reform* In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 189-194.



*Family farm in Terbuf Commune, Albania (2012).*

The *law on land* required distribution of all agricultural land (i.e. arable land, vineyard and orchards) of collective and state farms for free. Pastures and forests were not included and have stayed in state ownership. The land distribution process was managed by land commissions elected in each village. Land was to be divided on an equal per capita basis among all persons associated with the collective and state farms. The land was allocated to the families, and normally with the head of the family as the registered owner. According to the law it was not allowed to sell or buy the distributed agricultural land. This moratorium was lifted in 1998.<sup>75</sup>

In about half the rural areas, the land reform was conducted in accordance with the legislation. In the other half, mainly in the northern part of Albania and in hilly and mountainous areas in the central part of the country, the land commissions distributed the agricultural land to former owners or according to “old boundaries”.<sup>76</sup> These distributions recognized the ancestral land rights that enjoyed high levels of social legitimacy and seem to have been officially accepted even though the procedure was not consistent with the adopted land reform legislation.

In 1993, legislation was adopted that granted the pre-1945 landowners the right to claim restitution or to be compensated for lost agricultural land of up to 100 ha. By then, however, most of the land had already been distributed to the former workers of the collective and state farms. There are expected to be 41 000 claims for restitution

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<sup>75</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 76.

<sup>76</sup> USAID (2011): *USAID Country Profile – Property rights and resource governance – Albania*. P. 1-6.

and compensation which remain largely unsolved due to changing legislation as well as a lack of available land and funding for restitution. In 2005, it was estimated that funds necessary for compensation of former owners could amount to USD 5 billion.<sup>77</sup>



*Fragmented parcels of arable land in Terbuf municipality, Albania (2010).*

Land reform in Albania resulted in a complete restructuring of the agricultural sector as almost half a million new small family farms were created with an average holding size of 1.05 ha, typically divided into 2-5 parcels, and with an average of 3.3 parcels per holding.<sup>78</sup> Thus, the average parcel size after land reform was around 0.3 ha and the fields are rarely contiguous. The average one-way distance to all a farmer's parcels is 4-5 km in Lushnje region and 5-7 km in Vlora region.<sup>79</sup> To a very large degree, each family is farming its own land. In 1996, more than 95 percent of the arable area was being farmed by small-scale farmers in individual farms.<sup>80</sup>

The unresolved restitution claims have, in many cases, resulted in uncertainty of landownership and are thus hindering land market development and agricultural development in general.

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<sup>77</sup> Ibid. P. 10.

<sup>78</sup> Cunga, A and Swinnen, J (1997): *Agricultural privatisation, land reform and farm restructuring in Albania* in Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 7.

<sup>79</sup> World Bank (2001): *Project appraisal document for Albania Agriculture Services Project*. P. 47.

<sup>80</sup> Cunga, A and Swinnen, J (1997): *Agricultural privatisation, land reform and farm restructuring in Albania* in Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 11.

In 2011, Albania had about 390 000 family farms, with an average size of 1.26 ha, divided in 4.7 parcels, and with an average parcel size of 0.27 ha.<sup>81</sup> Both ownership fragmentation and land use fragmentation are severe and are hampering the use of the agricultural land. The agricultural land is in the ownership of the family, and not only in the ownership of the registered owner(s). This unregistered family co-ownership complicates the development of the land market because, according to the *civil code*, the family ownership means that all family members must sign the documents for any land transactions, even for exchange of parcels of equal value, in front of the notary or provide a power of attorney.<sup>82</sup>

### 3.3.2 Romania

Romania has a long history of land reform over the past 200-300 years. In 1921, landholdings of more than 200 ha were expropriated in a land reform process and 2.8 million ha were distributed to one million small family farms.<sup>83</sup> However, many large landowners remained due to difficulties in the implementation of the land reform. The agricultural census conducted in 1930 revealed an average area of 3.92 ha of arable land per household.<sup>84</sup>

In 1945, the Government expropriated the land of German citizens and collaborators as well as of absentee owners, and private agricultural land over 50 ha. No compensation was provided to the previous owners. In 1947, 1.4 million ha had been distributed to 800 000 family farms with less than 5 ha.

In 1949 began a long and complicated collectivization process that gradually led to the formation of large-scale collective and state farms. The collectivization was completed in 1962 where 77 percent of the agricultural land was under State control. The land remaining in private ownership was located mainly in mountainous areas, and was in the form of one million remote and fragmented mountain farms.

The recent land reform began shortly after the overthrow of the Ceausescu regime in December 1989. The political riots were accompanied by considerable spontaneous take overs of agricultural land and assets from collective and state farms. The initial phase of the land reform was chaotic as the provisional Government was trying to take control over the spontaneous events. The first of a series of laws concerning land was adopted as early as January 1990 and distributed up to 0.50 ha for the personal use of each former member of the agricultural cooperatives and pensioners.<sup>85</sup>

The main land reform law is the *land law* adopted in 1991. Privatization of land from collective farms and state farms followed different procedures in the initial phase. The political objective was equity and social justice to former owners and not efficient

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<sup>81</sup> Albanian Ministry of Agriculture, Food and Consumer Protection (2011): *Statistical Yearbook 2011*.

<sup>82</sup> Albanian National Land Consolidation Strategy (draft January 2013). Prepared under FAO project TCP/ARM/3301.

<sup>83</sup> Sarris, A. H. and Gavrilescu, D. (1997): *Restructuring of farms and agricultural systems in Romania*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 189-194.

<sup>84</sup> Rusu, M. et al (2002): *Land Fragmentation and Land Consolidation in the Agricultural Sector – A Case Study from Romania*. FAO. P. 6-7.

<sup>85</sup> Ibid.. P. 9-13.

agricultural production.<sup>86</sup> The law liquidated 3 700 collective farms.<sup>87</sup> Its basic provisions were that land was to be restituted to the former owners or their heirs. A maximum area of 10 ha of agricultural land and one ha of forested land per family could be restituted after making a claim and submitting the documentation for previous ownership. In 1997, the maximum area eligible for restitution was raised to 50 ha for agricultural land and to 30 ha of forested land. In addition, former members and employees of the collective farms, who had worked for the last three years before the political changes (1987-9) in collective farms or in inter-cooperative associations, could claim 0.5 ha of arable land even if they had not contributed land to the collective farms.

Land reform on the state farms initially followed a different track. In the first phase from 1990, the state farms were transformed into limited liability companies or joint-stock companies. In 1991, a privatization law distributed 30 percent of the shares in the companies to “private” investment funds. These funds were to issue to each Romanian citizen a certificate that could be sold or exchanged for shares of companies being privatized. However, this approach was abandoned before it was implemented, and in 2000 a law was adopted which allowed for restitution of state farms in a similar way to the collective farms, with a maximum of 50 ha for agricultural land and 10 ha for forested land. The claimants were to get back the original parcels and when that was not possible, financial compensation should be paid.

Land reform in Romania has been conducted mainly through the restitution of the pre-1948 ownership rights, first from the collective farms and from 2000 also from the state farms. In addition, in the early 1990s agricultural land parcels of up to 0.5 ha were distributed to the landless rural families who were not eligible for restitution.

By the end of 1999, the breakup of the large collective and state farms had resulted in an ownership structure in Romania where 4.1 million family farms owned 9.4 million ha of agricultural land, with an average of 2.3 ha per holding. The land was normally scattered in 4-5 parcels, and with an average parcel size of 0.5 ha.

The land reform process has resulted in a highly polarized farm structure with, on the one hand, a large number of small family farms engaged mainly in subsistence farming, and on the other hand, a relatively low number of large-scale corporate commercial farms.<sup>88</sup> In between, there is a thin layer of larger family farms and larger farms managed by agricultural associations. Many of the latter farms have evolved from the former collective farms. Some 1.6 million ha or 12 percent of the utilized agricultural land (UAA) remain in state and municipal ownership and are leased out to private farms.<sup>89</sup>

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<sup>86</sup> Rusu, M. and Pamfil, V. (2005): *Agricultural land reform and land consolidation in Romania*. Workshop paper from FAO Land Consolidation workshop. Prague March 2005.

<sup>87</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 39.

<sup>88</sup> Blenesi Dima, A. and Rusu, M. (2006): *Farmland consolidation: Recent developments in Romania*. Workshop paper FAO Land Consolidation workshop. Prague May 2006.

<sup>89</sup> Ciaian, P. et al., (2012): *Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries*. Factor Markets Working Paper no. 14. P. 21.

### 3.3.3 Bulgaria

In Bulgaria, the farm structures before WWII were dominated by small private family farms that developed after the Russian-Ottoman war in 1878 ended 500 years of Ottoman rule. The average farm size in 1946 was around 4.3 ha, distributed on average in 11 parcels and thus with an average parcel size of a little less than 0.4 ha.<sup>90</sup> In contrast to many of the other countries in the region, Bulgaria chose not to implement a large land reform in the 1940s after WWII.<sup>91</sup> The collectivization process began in 1946. The collectivization meant that almost all agricultural land came under state control or the control of cooperatives.<sup>92</sup> The farm sector was reorganized a number of times between 1946 and 1990. During the early 1970s, the state and cooperative farms were consolidated into huge agro-industrial complexes (TKZS), with an average size of 10 000 ha. However, a small number of individually managed private farms existed, mainly in mountainous areas. In 1985, privately used agricultural land parcels amounted to 13 percent of the total agricultural land.<sup>93</sup>

Land reform in Bulgaria began with the adoption of the *law of ownership and use of agricultural land* in 1991. Some 301 Municipal Land Commissions were established with the responsibility of restituting the state agricultural land to the former owners or their heirs. The ownership pattern as it existed in 1946 determined who were eligible for restitution. According to the law, restitution could take place in accordance with the old property boundaries where that was possible in the field. Where it was not possible, the Municipal Land Commissions prepared a land reallocation plan taking into consideration the various claims for restitution in the area, and the claimants received alternative land in the original village or compensation in privatization vouchers.<sup>94</sup> It was a specific objective of the law to reconstitute in the fewest possible parcels to avoid land fragmentation. To do so, the law set a minimum parcel size of 0.3 ha for arable land, 0.1 for vineyard and 0.2 for pasture land.<sup>95</sup>

The deadline for submission of restitution claims was in August 1992. The land reform process in Bulgaria was performed slowly and took about nine years. Changes in government led to frequent changes in the legal framework. Thus, the main *law on land reform* was amended nearly 35 times up until 2004. In the initial stage, restitution was restricted to a maximum of 30 ha, and to 20 ha in regions of intensive agriculture. Sales of agricultural land to private individuals was not allowed until three years after restitution. This moratorium was lifted later in the process. The land claims in many villages significantly surpassed the amount of land available. Where there were claims for more land than available, a correction coefficient would reduce every villager's claim.<sup>96</sup>

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<sup>90</sup> Howe, K.S (1998): *Politics, equity, and efficiency – Objectives and outcomes in Bulgarian land reform*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 208-215.

<sup>91</sup> Kiril Stoyanov (Ministry of Agriculture and Food, Bulgaria), personal communication, January 2013.

<sup>92</sup> ARD Inc. (2006): *Environmental and Economic impact assessment of land privatization in Eastern Europe and Eurasia – National report Bulgaria*. Prepared for USAID. P. 5.

<sup>93</sup> Davidova, S. et al. (1997): *Bulgaria: economic and pilotics of post-reform farm structures*. In Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 26.

<sup>94</sup> Vladimir Evtimov (Land Tenure Officer, FAO), personal communication, January 2013.

<sup>95</sup> Vranken, L. et al. (2011): Property rights imperfections and asset allocation: Co-ownership in Bulgaria. *Journal of Comparative Economics* 39 (2011), p. 159-163.

<sup>96</sup> Van Dijk, T. (2003): *Dealing with Central European land fragmentation – A critical assessment on the use of Western European instruments*. Eburon. P. 69.

The land restitution process resulted in the re-establishment of a large number of small family farms. In total, 5.7 million ha out of 6.2 million ha of state agricultural land were restituted.<sup>97</sup> The average size of agricultural holdings after land reform is two ha on average, distributed in 4-5 parcels and thus with an average parcel size of 0.4-0.5 ha.<sup>98</sup> However, ownership fragmentation is considerably worse than even these figures suggest. As most of the original landowners in 1946 had died by the time of restitution, the land was restituted to their heirs. According to the Bulgarian *inheritance law*, every heir gets an equal share of the property when the owner dies. So each heir was entitled to receive a relative share of each restituted parcel. When this conflicted with the above mentioned provisions on minimum parcel sizes in the *restitution law*, the heirs were forced into co-ownership of the restituted agricultural parcels. This has led to a massive co-ownership situation in Bulgaria where many parcels have numerous co-owners. Thus, the political intention of avoiding land fragmentation instead resulted in a hidden or internal fragmentation in the form of widespread co-ownership. Recent research documents that land in forced co-ownership in Bulgaria is more likely to be leased out to corporate farms or to be left abandoned than land under single ownership.<sup>99</sup>

The farm structures in Bulgaria after land reform are dualistic with a large number of small family farms and a much smaller number of large cooperatives and corporate farms. The average size of family farms in 1999 was 2.6 ha (including leased land), the average size of cooperatives was 483 ha, and the average size of corporate farms was 379 ha.<sup>100</sup> The large farming operations farmed mainly on leased land. In 2003, 77 percent of the total area under cultivation was leased.<sup>101</sup> Approximately 240 000 ha of agricultural land, or eight percent of the UAA, are owned and managed by the state through lease agreements with private family farms or corporate farms.<sup>102</sup> Between 2001 and until the end of 2012, a total of 32 000 ha were privatized through sale of state land through tenders.<sup>103</sup> Of this amount, 8 000 ha were sold in 2012.

### 3.3.4 Conclusions

Albania, Romania and Bulgaria chose quite different approaches to land reform but in all three countries the land reform process resulted in a complete restructuring of the agricultural sector. Albania distributed almost all agricultural land to rural families based on principles of equity in a quick land reform process in the early 1990s. A *land restitution law* was adopted but so far only limited progress has been made. Romania first distributed up to 0.50 ha for the personal use of each former member of the

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<sup>97</sup> ARD Inc. (2006): *Environmental and Economic impact assessment of land privatization in Eastern Europe and Eurasia – National report Bulgaria*. Prepared for USAID. P. 6.

<sup>98</sup> Kopeva, D. et al. (2002): *Land Fragmentation and Land Consolidation in the Agricultural Sector – A Case Study from Bulgaria*. FAO. P. 19.

<sup>99</sup> Vranken, L. et al, (2011): *Property rights imperfections and asset allocation: Co-ownership in Bulgaria*. *Journal of Comparative Economics* 39, 2011.

<sup>100</sup> Ibid p. 161.

<sup>101</sup> ARD Inc. (2006): *Environmental and Economic impact assessment of land privatization in Eastern Europe and Eurasia – National report Bulgaria*. Prepared for USAID. P. 12.

<sup>102</sup> Ciaian, P. et al., (2012): *Sales Market Regulations for Agricultural Land in the EU Member States and Candidate Countries*. Factor Markets Working Paper no. 14. P. 21.

<sup>103</sup> Kiril Stoyanov (Ministry of Agriculture and Food, Bulgaria), personal communication, January 2013.

agricultural cooperatives and pensioners during 1990-1, and then from 1991 restituted land to the pre-collectivization owners and their heirs. Where restitution was not possible, the lost land was compensated. Bulgaria restituted the ownership situation as it was in 1946 (and compensated when restitution was not possible) in a slow land reform process.

In all three countries the land reform resulted in a complete breakup of the former large-scale cooperatives and state farms. The outcome has been small average sizes of agricultural holdings (between 1.3 and 2.3 ha) and severe ownership and land use fragmentation emerged, with an average 4-5 agricultural parcels in all three countries. In addition, “hidden” fragmentation in the form of co-ownership is common in Bulgaria and Albania in the form of family ownership of the agricultural land while co-ownership is not so common in Romania.<sup>104</sup> In Albania, the farm structures are completely dominated by the small and highly fragmented family farms as almost all agricultural land is used by the owning families. Small family farms also dominate in the other two countries but the farm structures are dualistic, with large corporate farms also dominating.

### 3.4 Former Yugoslavia countries

Following the fall of communism, ethnic tension and economic problems led to the tragic wars in the ex-Yugoslavia countries during 1991-5 (Slovenia, Croatia, Serbia, and Bosnia and Herzegovina) and 1998-9 (Kosovo and Serbia). Seven independent countries: **Slovenia, Croatia, Serbia, Bosnia and Herzegovina, Montenegro, Macedonia** and **Kosovo** were founded on the ruins of Yugoslavia.

Land reform in the former Yugoslavia countries, with the exception of Slovenia, began much later than in most of the other countries in Central and Eastern Europe, and the wars have significantly complicated the land reform process. However, the starting point for land reform was also different from that of most of the other countries in the region. In Yugoslavia, the majority of the agricultural land was in private ownership as well as use throughout the socialist era. Thus, as much as 82 percent of the agricultural land was owned by small private family farms in 1985.<sup>105</sup>

The farm structures in most of the regions of Yugoslavia before WWII were dominated by small-scale family farms. From 1945, after the communists took over, large-scale state farms were created until 1953.<sup>106</sup> Different tools were applied in the collectivization process. Agricultural land and forests of large landowners including banks, private companies and churches, were expropriated without compensation. To begin with, the maximum allowed size of privately-owned farms was limited to 25 ha. In addition, the government confiscated land belonging to German citizens and to those who had cooperated with the Germans during the war. The nationalization of

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<sup>104</sup> Attila Blenesi-Dima, personal communication, January 2013.

<sup>105</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 22.

<sup>106</sup> Bojnec, S and Swinnen, J (1997): *Agricultural privatisation and farm restructuring in Slovenia* in Swinnen, J et al. (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 282-284.

large landholdings resulted in a state land reserve of 1.5 million ha of which 800 000 ha was distributed to settlers who had moved from unproductive mountain areas to more fertile areas. The remaining 700 000 ha was used to establish state farms.<sup>107</sup> In 1953, the large-scale collectivization was abandoned because of strong opposition from peasants and due to poor performance of collective and state farms that led to economic and political problems. During 1949-50, frustrated peasants organized spontaneous local armed rebellions against collectivization.<sup>108</sup>

Collectivization, however, continued at a lower intensity through expropriation and state purchase of private agricultural land in order to enlarge the state farms. From 1953 the maximum size of privately-owned farms was limited to 10 ha of agricultural land in fertile areas and to 20 ha in hilly areas.

Between 1955 and 1965, 1.2 million ha of agricultural land were purchased and expropriated from the private family farms and an additional 400 000 ha were cultivated through land reclamation (i.e. cultivation of grasslands and drainage of ponds and moors). This land was used to establish and enlarge existing large-scale state farms, often in the form of the so-called Socially Owned Enterprises (SOEs). Land consolidation was used as an instrument in this process as well. The different ways in which the state farms acquired private agricultural land in Yugoslavia has complicated the restitution and privatization process in the countries of the former Yugoslavia after 1991.

As a result of the collectivization process, a dualistic farm structure existed from the middle of the 1950s until after the wars in the 1990s, with many small-scale private family farms farming around 80 percent of the agricultural land and large-scale SOEs farming around 20 percent. The structure of the private farms was “frozen” since selling and buying of agricultural land between private individuals was hampered by complicated administrative procedures. Furthermore, the agricultural input and output market was fully controlled by the state.

Most of the former Yugoslavia (i.e. the north-western part) had been part of the Austro-Hungarian Empire and as such had the dual land registration system, with a separate land book and cadastre. All seven countries are struggling with severe registration problems that occurred from poor maintenance of the two registers and the lack of updating and coordination during the period of 1940-95. Furthermore, in some cases the land registers were lost in the wars (WWII and those of the 1990s).

Those regions of the former Yugoslavia that were part of the Austro-Hungarian Empire have a long tradition, going back to the first part of the 19<sup>th</sup> century, for improving the agricultural structures through land consolidation projects.<sup>109</sup> After WWII, the first *land consolidation law* was adopted in the Socialist Republic of Croatia in 1954. In SR Slovenia, the law was passed in 1957. Later, similar laws were adopted in most of the other republics, for example in Bosnia and Herzegovina as late

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<sup>107</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 18-20.

<sup>108</sup> Glenny, M. (1999): *The Balkans – Nationalism, War, and the Great Powers, 1804-1999*. Penguin Books. P. 550-551.

<sup>109</sup> FAO Land Consolidation Project TCP/BIH/3301 (2012): *Draft land consolidation strategy framework paper*.

as 1974. The land consolidation approach in Yugoslavia was similar to the German and Dutch approach at the time, with land consolidation often being implemented in connection with large-scale agricultural development projects, such as irrigation and infrastructure works. In Yugoslavia, the approach was top-down and often used to enlarge and consolidate the land of the state farms, and sometimes at the expense of the private family farmers who were forced to exchange their parcels for more remote ones.<sup>110</sup> There are, however, also many examples where the private family farms benefitted from the land consolidation projects by reducing the number of land parcels (fragmentation) and amalgamating land closer to the homesteads.

The wars in the 1990s have further complicated the land reform process, especially in Croatia, Serbia, Bosnia and Herzegovina, and Kosovo. The restitution and compensation of refugees and displaced persons in the countries of ex-Yugoslavia after the wars is not included in this paper.

### 3.4.1 Slovenia

In Slovenia, the war that broke out in 1991 lasted only 10 days, and soon after its independence the country began a transition process that led to EU membership in 2004. It was the first of the countries of the former Yugoslavia to obtain EU membership.

At the starting point of land reform, about 17 percent of the agricultural land in Slovenia was owned by the state farms. The *law on denationalization* was adopted in 1991 and laid the foundation for restitution of the state land to the former owners. In 1993, the process was supported by the adoption of the *law on the fund of agricultural land and forests (the land fund)*.<sup>111</sup> The restitution of the state land was handled by the state land fund. As mentioned above, the restitution process was complicated by the different approaches that had been used in Yugoslavia to acquire land from private farmers, sometimes without any compensation, sometimes with some compensation, and sometimes in a regular sale from the private owner to the state. Claims submitted for restitution by former owners or their heirs covered only a relatively small share of the state agricultural land.<sup>112</sup> However, the restitution process was delayed and in 2000, only 40 percent of the land object of restitution had been restituted. By 2010, however, the process had been almost finalized.<sup>113</sup>

A special characteristic of land restitution in Slovenia was that the *law on denationalization* introduced restitution of agricultural land in co-ownership to the former owners and their heirs in cases where the land eligible for restitution was part of large agricultural fields, large orchards or vineyards. This provision reduced the

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<sup>110</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 39.

<sup>111</sup> Bojnec, S and Swinnen, J. (1997): *Agricultural privatisation and farm restructuring in Slovenia* in Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 289-293.

<sup>112</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 37.

<sup>113</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 31.

physical land fragmentation as a result of the restitution process but instead it created “internal” fragmentation in the form of co-ownership.<sup>114</sup>

The Slovenian state land fund still had around 60 000 ha (nine percent of all agricultural land) in its possession in 2011 and it functions today as a state land bank, which besides the management of the state agricultural land, is also able to purchase agricultural land that is used to increase the land mobility when implementing land consolidation projects.<sup>115</sup> In 2011, the Land Fund sold only 11 ha but bought 304 ha of agricultural land. Slovenia has no plans for mass privatization of the remaining stock in the Land Fund. However, agricultural land from the fund can be sold if requested by private farmers and leaseholders have a pre-emptive right for purchase.

The farm structure in Slovenia is still dominated by many relatively small family farms with an average agricultural holding size of 6.3 ha, an average size of arable land parcels of 0.3 ha, and an average of 22 land parcels per agricultural holding.<sup>116</sup> The share of agricultural land used through lease agreements is relatively low, with only 30 percent of the total UAA being leased in 2005.<sup>117</sup>

### 3.4.2 Croatia

Croatia is set to become a EU member in July 2013; it will become the second country of ex-Yugoslavia to do so. In Croatia the restitution of state agricultural land began in 1996 after the Dayton Peace Accord, and with the adoption of the *law on compensation for the property confiscated during the communist regime in Yugoslavia*.<sup>118</sup> According to the law, only Croatian citizens could have land restituted. In 1999, the Croatian Constitutional Court intervened and mandated the Croatian Parliament to allow for restitution regardless of citizenship.<sup>119</sup> The law was amended in 2002 and allowed for restitution to non-Croatian citizens but still with some exceptions. Only after a ruling of the Croatian Supreme Court in 2010 is restitution possible to all.

The compensation law defines restitution of the actual property as the main approach. However, when physical restitution is not possible, the former owners are compensated in state bonds.<sup>120</sup> Given budgetary constraints, the law limits the total amount of compensation to 3.7 million kuna (approximately 500 000 EUR). Large claims are not fully compensated but instead with a smaller portion of the actual value of the claim. The restitution process in Croatia is mainly managed at the regional level of the public administration by the County Public Administration Offices in

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<sup>114</sup> Bojnec, S and Swinnen, J. (1997): *Agricultural privatisation and farm restructuring in Slovenia* in Swinnen, J et al (edit): *Agricultural Privatisation, Land Reform and Farm Restructuring in Central and Eastern Europe*. P. 291.

<sup>115</sup> Lisec, A. (2012b). *Unpublished notes on land reform and land restitution in Slovenia*.

<sup>116</sup> Lisic, A et al. (2012a): *The institutional framework of land consolidation – comparative analysis between Slovenia and Norway*. Paper presented at FIG Working Week, Rome. P. 3-4.

<sup>117</sup> Swinnen, J. & Vranken, L, (2009): *Land & EU Accession – Review of the Transitional Restrictions by New Member States on the Acquisition of Agricultural Real Estate*. Centre for European Policy Studies (CEPS). P. 16.

<sup>118</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 31.

<sup>119</sup> Adamcic, J. (2012): *Restitution of Property to non-Croatian Citizens – Possible at last?*

<sup>120</sup> European Parliament (2010): *Private Properties Issues Following the Change of Political Regime in Former Socialist or Communist Countries – Study*. Directorate-General for Internal Policies. P. 85-88.

collaboration with the Public Prosecutor's office. The restitution process in Croatia has been slow and is still ongoing. In 2010, 71 percent of the claims had been concluded.

In addition to restitution to previous owners, **Croatia** is in the process of privatization of state agricultural land through sale. According to the *law on agricultural land* adopted in 2001, the local governments (municipalities) were given the responsibility to prepare privatization programmes for state agricultural land under their jurisdiction.<sup>121</sup> State land can be disposed of only through an auction or tender procedure. According to the law, family farms have the priority right to purchase or lease state land. The state land can be sold only when the land registers (i.e. land book and cadastre) are updated and reflect the actual situation in the field. This is a necessity but has further delayed the privatization process as the updating and coordination of the land registers are often complicated and time consuming. In total, around 220 000 ha of agricultural land has been included in the programmes. In 2012, around 63 000 ha had been privatized through sale.<sup>122</sup>

The farm structure in Croatia is dominated by many small and fragmented family farms with a few large corporate farms. In 2009, the average size of commercial farms (including land leased in and leased out) was 8.5 ha while the average of all farms was only 2.9 ha.<sup>123</sup> Abandoned agricultural land is a widespread phenomenon and more than 1/3 of the agricultural land is reported to be unused.<sup>124</sup>

### 3.4.3 Serbia

Serbia was granted the status of a EU candidate country in March 2012. In Serbia, the legal foundation for land reform was the adoption in 1992 of the *law on land restitution*.<sup>125</sup> In 1992, 74 percent of the agricultural land in Serbia was owned and farmed by private individual family farms. In accordance with the law, around 150 000 ha of agricultural land expropriated after 1953 has been restituted to the previous owners. Agricultural land confiscated between 1945 and 1953 was excluded from restitution, together with restitution to former German owners and other minorities. Where it has not been possible to reconstitute in the old boundaries, the claimants have often been offered other unclaimed state land. According to the same law, land that had been confiscated from villages has been restituted and around 550 000 ha, mainly pasture land, has been returned to municipalities but is still under management by the state.

In 2006, the *law on restitution of property to churches* came into force. The Serbian Orthodox Church used to be one of the biggest landowners in Serbia. Some 9 000 ha of agricultural land and 22 000 ha of forest land was returned to the church.<sup>126</sup>

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<sup>121</sup> ARCOTRASS (2006a): *Croatia – Country report*. Funded by the European Commission. P. 9-11.

<sup>122</sup> Internal database of Ministry of Agriculture, Ana Budanko Penavic (Ministry of Agriculture, Croatia), personal communication.

<sup>123</sup> Croatian Ministry of Agriculture (2009): *Croatian Agriculture*. P.6.

<sup>124</sup> Nordic Consulting Group (2009): *Pilot Project on Land Consolidation in Croatia – Final Report*. P. 7.

<sup>125</sup> Haldrup, N.O. et al. (2003): *Land Consolidation and Land Tenure Assessment Mission, Republic of Serbia – Pre-Feasibility Study*. FAO. P. 11-12.

<sup>126</sup> Marosan, M. (2012): *Identification of Main Legal Issues Important for Successful Land Consolidation in Serbia*. P.19-22.

In 2011, the *law on restitution of property and compensation* was adopted. The new restitution law also addresses the land confiscated from private owners during 1945-53. According to the law, nationalized property must be restituted to the former owners or their heirs. Where this is not possible, they have a right to compensation. It is estimated that the restitution process in Serbia will not be fully finalized for several decades. If the land is leased out (by the state) at the time of restitution, the lessee has the right to continue the land use for three years in the case of agricultural land and for 30 years in case of vineyards. In cases where nationalized agricultural land has been included in a land consolidation project during the communist period in Yugoslavia, the land is restituted in the boundaries as they were after the land consolidation projects (normally in fewer and larger parcels than at the time of nationalization).

In addition to the restitution of agricultural land to former owners, Serbia has implemented a privatization programme under which state land that is not subject to restitution is privatized through tenders and auctions. The legal framework is provided by the *law on privatization*, which was adopted in 2001 after the Milosevic government had lost power. In 2000, there were 411 state farms with an average size of 1 600 ha. Between 2002 and 2008, nine large state agricultural enterprises, each with 5 000-6 000 ha and 300 employees, were privatized through tender.<sup>127</sup> During the same period, 125 smaller state farms were privatized through auctions. The privatization process in Serbia has not yet been finalized.

In many cases, land restitution in Serbia has had a negative impact on land fragmentation and has further led to uneconomic land use in the agricultural sector. Furthermore, many of those who had land restituted were living in cities and did not have an interest in agriculture. In 2012, the average size of a family farm was around 4.8 ha including land leased in and leased out, and on average was divided in 5-6 parcels.<sup>128</sup> The average size of agricultural parcels owned by family farms is 0.34 ha and the average size of corporate farms is 175 ha. Fragmentation of agricultural land is continuing through inheritance. As a general rule, the *law on inheritance* prescribes that the land parcels are divided among the heirs.

The privatization through sale in Serbia has, on the other hand, not changed the farm structures very much as the state land has often been sold to private investors in large parcels or as complete farms. Today, large corporate farms own 15 percent of the arable land while the remaining 85 percent is owned by family farms.<sup>129</sup>

#### **3.4.4 Montenegro**

Montenegro became independent from the union with Serbia in 2006 after a referendum in 2005. Montenegro was given the status of EU candidate country in 2010.

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<sup>127</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 34-35.

<sup>128</sup> Zoran Knezevic, (Director, Directorate of Agriculture Land, Ministry of Agriculture, Forestry and Water Management, Serbia), personal communication, January 2013.

<sup>129</sup> Marosan, M. (2012): *Identification of Main Legal Issues Important for Successful Land Consolidation in Serbia*. P.19-22.

In the 1980s, around 90 percent of the agricultural land was owned by private family farms. In 2004, Montenegro adopted the *law on property restitution and remuneration*. Restitution is to be executed within 10 years from the adoption of the law (i.e. to 2014).<sup>130</sup> The law, which was revised in 2007, provides for restitution in kind where possible, and with cash compensation or substitution of other state land where physical return is not possible. This has been the case if substantial funds have been invested in improvement of the land value through irrigation, planting of perennials and construction of buildings. As of 2010, 6 200 claims for restitution of 9 800 ha had been submitted, and 4 800 ha had been given back to former owners or their successors.

The *law on privatization* from 1996 provided for the acceleration of the privatization process. As of 2010, the privatization of agricultural land through sale was almost completed and 97 percent of all agricultural land was privately owned.

Farm structures in Montenegro have remained relatively stable over the past decades despite the land reform initiatives. The average size of privately-owned agricultural holdings was around 2.7 ha in 1991.<sup>131</sup>

### 3.4.5 Bosnia and Herzegovina

Bosnia and Herzegovina became independent from Yugoslavia after the Dayton Peace Accord in 1995. During the war of 1991-5, over two million of the 4.4 million inhabitants either became refugees or were displaced from their homes. Many of these were rural families who had agricultural land.<sup>132</sup> In Bosnia and Herzegovina, land issues are under the responsibility of the entities: Republika Srpska, the Federation of Bosnia and Herzegovina, and the Brcko District. Thus, what in other countries is referred to as state agricultural land is, in Bosnia and Herzegovina, owned and administrated by the entities.

Restitution to former owners and privatization through sale of state land has not been the most important issue in the aftermath of the war. Only around six percent of agricultural land is still state owned, while 94 percent is already privately owned.<sup>133</sup>

The Republika Srpska adopted the *law on restitution and remuneration* in 2000 but the law was suspended shortly afterwards. So far no further initiatives have been taken towards restitution of state agricultural land to former owners in Republika Srpska. In 2002, a draft *law on restitution* was discussed in the parliament of the Federation of Bosnia and Herzegovina. However, the law was withdrawn for additional work and so far no further initiatives have been taken in the Federation either.<sup>134</sup>

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<sup>130</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 31 and 46-47.

<sup>131</sup> ARCOTRASS (2006b): *Montenegro – Country report*. Funded by the European Commission. P. 7-8.

<sup>132</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 25.

<sup>133</sup> FAO Land Consolidation Project TCP/BIH/3301 (2012): *Draft land consolidation strategy framework paper*.

<sup>134</sup> Zivkov, G. (2010): *Transition Reform of the Agriculture Sector in Former SFRY countries*. Working paper prepared for FAO. P. 31.



*Family farm in Ravno Municipality, Bosnia and Herzegovina (2012).*

Privatization of state agricultural land through sale has not yet been launched in Bosnia and Herzegovina. This is partly due to the unsolved restitution process and partly due to a political concern of not creating further fragmentation.

Today, as was the case during the Yugoslavia era, the farm structures in Bosnia and Herzegovina are dominated by many small and fragmented family farms, and with a few large corporate farms, often the successors of the SOEs. Land abandonment occurs even on fertile agricultural land for a number of reasons, such as land fragmentation, limited access to agricultural sales markets and the fact that many owners of agricultural land have moved away from the area where the land is located. Land market development is further hampered by out-of-date land registers. Many of the registered owners have been dead for decades and the inheritance remain unsolved and unregistered in the families. Thus, many agricultural land parcels have informal co-owners, sometimes among 2-3 generations of family members.

### **3.4.6 Macedonia**

Macedonia (The former Yugoslav Republic of Macedonia) became independent in 1991. The status as a EU candidate country was granted in 2005 and negotiations on membership began in 2007.

At the starting point of land reform in Macedonia, 78 percent of the agricultural land was privately owned, and with the remaining 22 percent being owned by the state

(around 200 000 ha).<sup>135</sup> The design of the land reform process has been influenced by a political concern that the process would lead to reduced productivity in the agricultural sector through the breakup of the large-scale state farms, and to further land fragmentation.<sup>136</sup>

The adoption of the *law on denationalization* in 1998 opened up for the restitution of agricultural land that had been nationalized after WWII.<sup>137</sup> The restitution law, however, has provisions (article 21) to protect the state farms.<sup>138</sup> Thus, former owners and their successors had to accept compensation in state land other than the original boundaries of the parcel if the land for restitution was part of a large field of a minimum of 20 ha. Another option was to restitute the land in the form of co-ownership of the state farm. About five percent of the total size of agricultural land in Macedonia or a little less than 1/4 of the state land has been restituted.<sup>139</sup> The Government announced in March 2012 that the restitution process had been finalized and 31 000 claims for restitution had been considered.<sup>140</sup>

Macedonia has so far chosen to lease the 17 percent of the agricultural land that remains under state ownership after the restitution process in order to avoid a loss of agricultural productivity and increased land fragmentation. The state land and state farms are often leased out to large corporate farms.

The private agricultural land in Macedonia is highly fragmented with an average size of private agricultural holdings of 2.5 – 2.8, an average parcel size of 0.3 – 0.5 ha, and with an average of 7 land parcels in each holding.<sup>141</sup> However, the land fragmentation is in general not caused by the land reform process but relates to the pre-WWII farm structure.

### 3.4.7 Kosovo

During the Yugoslavia period, Kosovo had an autonomous status as part of the Socialist Republic of Serbia. This status was eliminated by the Milosevic government in 1989. Ethnic tension led to discrimination, armed conflict and the war during 1998-9. The war stopped after NATO's bombings of Serbia. After the war, the international community established a transitional government (UNMIK). Kosovo declared its independence in 2008.

The Kosovo Trust Agency (KTA) was established by UNMIK in 2002 with the mandate to privatize the 12 percent of the agricultural land that was owned by the

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<sup>135</sup> Noev, N. et al. (2003): *The Development of Land Rental Markets in Bulgaria and the former Yugoslav Republic of Macedonia*. P. 72.

<sup>136</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 26.

<sup>137</sup> Noev, N. et al. (2003): *The Development of Land Rental Markets in Bulgaria and the former Yugoslav Republic of Macedonia*. P. 44-49.

<sup>138</sup> Melmed-Sanjak, J et al. (1998): *Project for the Analysis of Land Tenure and Agricultural Productivity in the Republic of Macedonia*. Working Paper no. 19. Land Tenure Center, University of Wisconsin. P. 25.

<sup>139</sup> Noev, N. et al. (2003): *The Development of Land Rental Markets in Bulgaria and the former Yugoslav Republic of Macedonia*. P. 72.

<sup>140</sup> <http://vlada.mk/?q=node/2585&language=en-gb>

<sup>141</sup> Keith, S. et al. (2009): *Options for the management of state land in rural areas in The former Yugoslav Republic of Macedonia*. FAO Land Reform Journal 2009/1.

state (i.e. through SOEs).<sup>142</sup> It was estimated that after the war the SOEs held 60 000 ha of the most fertile agricultural land in Kosovo. As in the other countries of ex-Yugoslavia, agricultural land often became controlled by the state after it was nationalized or expropriated without compensation from private owners after WWII. However, to date, legal provisions regulating claims for restitution have not been adopted.<sup>143</sup> Thus, the state land has to a large degree been privatized without taking into consideration the possibility of claims for restitution. Under the UNMIK Regulation No. 2005/18, the KTA did not need to determine the ownership status of assets of SOEs before privatization.<sup>144</sup> As a consequence of the privatization process in Kosovo, future physical restitution will not be possible and the claimant will be limited to compensation.<sup>145</sup>

In 2008, the Privatization Agency of Kosovo (PAK) succeeded KTA and the privatization process is still ongoing. Land privatization in Kosovo has been conducted through a tender procedure where state agricultural land (used by SOEs) has usually been privatized in large blocks of parcels or whole farms at the time. Thus, the privatization has not contributed to further land fragmentation. However, land fragmentation is continuing through inheritance.<sup>146</sup>

The farm structure is still dominated by a large number of small and fragmented family farms and a small number of large-scale corporate farms, as was the case during the Yugoslavia era. In 2009, the average size of agricultural holdings was 2.5 ha, distributed in an average of eight land parcels, and thus with an average parcel size of 0.3 ha.<sup>147</sup> Some 80 percent of the farms use between 0.5 and 2.0 ha, and 90 percent of all farming units have less than 2.5 ha.

### 3.4.8 Conclusions

All seven countries of the former Yugoslavia had, more or less, the same starting point for land reform, and this was significantly different from that of most of the other countries in Central and Eastern Europe. More than 80 percent of the agricultural land was owned and used by small family farms between 1945 and the outbreak of the war in Yugoslavia in 1991.

Thus, the land reform activities have not fundamentally changed the ownership of agricultural land and the farm structures, as has happened in most of the other countries in the region. The farm structures today in the seven countries are dualistic and remain characterized, on the one hand, by a large number of small family farms (often with several fragmented land parcels as was the situation in Yugoslavia before WWII) and, on the other hand, by a limited number of large-scale corporate farms (often the successor of the SOEs).

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<sup>142</sup> ARCOTRASS (2006): Kosovo – Country report. Funded by the European Commission. P. 7-8.

<sup>143</sup> OSCE & UNMIK (2008): *Privatization in Kosovo: Juridical Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo*. P. 6-7.

<sup>144</sup> Ibid. P.10.

<sup>145</sup> Ibid. P 28.

<sup>146</sup> Stanfield, D. et al. (2004): *An Assessment of Property Rights in Kosovo*. USAID. P. 49-50.

<sup>147</sup> Kosovo Ministry of Agriculture, Forestry and rural Development (2009): *Kosovo Agriculture and Rural Development Plan 2009-13*, p. 25.

Slovenia was not affected by the wars in the same way as most of the other countries and became a EU member as early as 2004. Not surprisingly, Slovenia has the largest average agricultural holding size with 6.3 ha but on average separated into 22 land parcels. The other six countries all have an average size of agricultural holdings of between 2 and 3 ha. The average size of agricultural land parcels is close to 0.3 ha in all seven countries, and the level of fragmentation of the agricultural land is high and often even higher than the official register data indicates. As mentioned, the land registers were often not updated in Yugoslavia, and many registered owners have been deceased for decades and the land has been divided informally or is in co-ownership between family members. In most of the countries (e.g. Croatia and Bosnia and Herzegovina), land abandonment is widespread even on the fertile land.

In five of the seven countries (Slovenia, Croatia, Serbia, Montenegro and Macedonia), there has been a process whereby former owners and their heirs could receive, through restitution, the state agricultural land that was nationalized without payment of compensation to the landowners between 1945 and 1991. Where physical restitution has not been possible, compensation has been paid. In Slovenia and Macedonia the land restitution process has been almost finalized while it is still ongoing in Croatia, Serbia and Montenegro. The restitution of state land to former owners in the five countries has, to some extent, further contributed to land fragmentation. However, most of the land fragmentation originates from the “frozen” farm structures of before WWII and still continues through inheritance.

Four of the seven countries (i.e. Croatia, Serbia, Montenegro and Kosovo) have engaged in large-scale privatization programmes where the remaining state agricultural land is privatized, often through public tenders or auctions. In Montenegro and Kosovo, the privatization process is coming towards an end whereas it will be ongoing for a while in Croatia and Serbia. In Kosovo, the state agricultural land was privatized at auctions without a parallel option for restitution. If legal provisions for restitution are adopted in the future, the claimants will have to be compensated in money as the land will already have been privatized to new owners through sale.

In Bosnia and Herzegovina, no steps have so far been taken towards either restitution or privatization through sale, and state agricultural land remains under the management of the entities and is often leased out to corporate farms.

### 3.5 Western CIS countries

The western countries of the Commonwealth of Independent States (CIS), **Moldova**, the **Russian Federation**, **Ukraine**, and **Belarus**, have approached land reform in quite different ways since the breakup of the Soviet Union in 1991. During the Soviet era, all agricultural land was state-owned.<sup>148</sup> Agricultural land was, with the exception of household plots where use rights were granted to the rural families, used for large-scale farming in collective farms (kolkhozes) or state farms (sovkhozes) and was typically organized with one large farm per village.

#### 3.5.1 Moldova

Moldova (with the exception of the small part to the east of the Dnistr river) was part of the larger Bessarabia annexed by Romania in 1920. After WWII, it became part of the Soviet Union as the Moldavian Soviet Socialist Republic. Land reform in Moldova<sup>149</sup> was made feasible through the adoption of the *land code* in 1991 and the *law on peasant farms*.<sup>150</sup> As its way of land reform, Moldova chose first the approach of distribution through paper shares, and subsequently the physical distribution of agricultural land parcels.<sup>151</sup> After the adoption of the *land code*, village land commissions were established to determine “equivalent” land shares for eligible recipients, such as members and workers of collective and state farms, including administrative and professional staff, teachers, social workers and pensioners. One of the first activities was to determine the land fund subject to privatization, and the village land commissions played a central role.

The *land code* provided for the preparation of “land arrangement projects”. These privatization projects were approved by local councils of the municipalities upon the recommendation of the village land commissions and after taking into consideration the opinion of the eligible persons. The local councils authenticated the property rights for the equivalent shares of land and issued land titles for the land shares. Initially, the provisional land titles did not indicate the exact location of parcels and eligible persons were not allocated physical parcels. The second stage of allocating parcels began in the mid-1990s. The new owners of shares of agricultural land had to explicitly request to withdraw from the corporate farms, and only in this situation were distinct, physical land parcels allocated.

Administrative support for land privatization was relatively weak in the early and mid-1990s, and in many cases the management of collective and state farms worked against the process. During 1992-6, less than 10 percent of members of collective farms left through withdrawal of their land and were trying to farm individually, often

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<sup>148</sup> World Bank (2005): *Moldova Agricultural Policy Notes, Agricultural Land*. P. 1-2.

<sup>149</sup> For a more detailed description of land reform in Moldova and the subsequent experiences with land consolidation see: Hartvigsen, M. et al. (2013): *Experiences with land reform and land consolidation in Moldova*. FAO Land Tenure Journal no. 1/2013.

<sup>150</sup> Csaki, C. and Lerman, Z. (2001): *Land Reform and Farm Restructuring in Moldova: A real breakthrough?* Discussion Paper, Hebrew University of Jerusalem.

<sup>151</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 93.

without any equipment.<sup>152</sup> Thus, despite the early start, the land reform advanced very slowly until 1996 when the Constitutional Court removed legislative constraints.<sup>153</sup>



*Fragmented land parcel in Moldova (2005).*

The second part of Moldova's land reform was heavily influenced by donors. The National Land Programme, funded by USAID, was launched in 1997. Land arrangement projects for privatization were finally prepared and implemented using the procedure set by the 1991 *land code*. The new owners each received parcels of "equivalent soil quality" rather than of equal surface area (i.e. allocations of land with good soil quality were smaller than those for less fertile soils). Moldova was relatively unusual amongst transition countries in that a husband and wife each received land parcels, rather than the household.

The National Land Programme ended in 2001 and resulted in the privatization of more than 98 percent of agricultural land subject to privatization: around 1.7 million ha was privatized to almost 1.1 million new owners, each with an average landholding of 1.56 ha<sup>154</sup>. Normally the landholding was distributed in 3-4 parcels (i.e. 1-2 parcels of arable land, one parcel of orchard and one parcel of vineyard).

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<sup>152</sup> East-West Management Institute (2001): *Moldova Land Privatization Programme– Final Report*. P.7.

<sup>153</sup> Csaki, C. and Lerman, Z. (2001): *Land Reform and Farm Restructuring in Moldova: A real breakthrough?* Discussion Paper, Hebrew University of Jerusalem. P.1.

<sup>154</sup> Consulting and Credit in Agriculture (CCA) (2003): *Agricultural Land Market in Moldova – Baseline Study*. P.7.

The land reform in the 1990s and post-land reform development has resulted in a polarized agricultural structure. A duality exists with a relatively small number of large corporate farms at one extreme and a large number of very small and fragmented family farms at the other. While smallholders operate some 99.5 percent of farms, they farm less than 39 percent of the total UAA. Their farms average around one ha compared with an average of almost 250 ha for the larger operators who often farm on land leased in.<sup>155</sup> Medium-sized family farms that are the backbone of the agricultural structures in most Western European countries are almost completely absent in Moldova.

The land reform in Moldova in the 1990s did not include the so-called Trans-Dniestr area between the Dniestr River and the Moldovan border with Ukraine. In this area, the agricultural land is still state-owned according to the 2002 *land code*. The land continues to be used by large-scale corporate farms (i.e. former collective and state farms).

### 3.5.2 Russian Federation

Starting in 1990, the Russian Federation has been implementing its third land reform in the last 100 years.<sup>156</sup> The first wave of reforms, the Stolypin reforms, were launched in Czarist Russia in 1906.<sup>157</sup> These reforms were basically an enclosure movement similar to the reforms that took place in Denmark from the 1780s onwards, where the common use of the agricultural land was transformed into individual family farms. They were interrupted by the Bolshevik revolution in 1917, which resulted in the second land reform of collectivization. Forced collectivization in the Soviet Union was a gradual process, but from the mid-1930s, all individual independent farms had vanished and all agricultural land was in the ownership of the state and managed by the collective and state farms, except for the so-called household plots where the use right were allocated to the rural population for subsistence farming.<sup>158</sup>

The recent land reform began with the adoption of *principles of legislation of the USSR and Union Republics on land* in 1990, which was more than a year before the dissolution of the Soviet Union.<sup>159</sup> The law empowered the republics to adopt their own legislation on land. The Russian Soviet Federative Socialist Republic subsequently adopted a number of laws including the *law on land reform*, the *law on peasant farms*, the *law on property* and the *land code*, and also legalized private ownership of land in addition to state ownership. Private landownership was confirmed by the 1993 *constitution* of the Russian Federation. But despite these legislative steps, the Russian Federation's land reform was intended to allow state and

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<sup>155</sup> National Bureau of Statistics of the Republic of Moldova (2011): *Preliminary result of General Agricultural Census 2011*.

<sup>156</sup> Wegren, S. (1998): *The conduct and impact of land reform in Russia*. In Wegren, S (edit): *Land Reform in the Former Soviet Union and Eastern Europe*. P. 95.

<sup>157</sup> For detailed information about the Stolypin reform see: Kofoed, C.A. (1985): *My Share in the Stolypin Agrarian Reforms*. Odense University Press.

<sup>158</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexinton Books. P. 65.

<sup>159</sup> *Ibid.* P. 68.

collective farms to exist and function, and the land reform was designed in such a way that only a small percentage of the land from the collective sector was distributed.<sup>160</sup>

During 1992-4, most of the state agricultural land managed by the collective and state farms was privatized through the distribution of the ownership of the large corporate farms to former collective farm members and state farm workers in the form of land shares.<sup>161</sup> Land shares could be bought and sold by individuals, leased from individuals or invested in the equity capital of the farm enterprise.<sup>162</sup> Only the household plots (where the rural population had been granted the use rights during the Soviet period) have been privatized and the individual ownership of the physical parcels fully registered.

The paper land shares are described by Lerman as *fractional ownership in a large tract of jointly owned land, which in reality is managed and controlled by somebody else (typically the former collective farm in the village)*.<sup>163</sup> Owners of land shares who want to create individual, independent family farms are allowed to withdraw from the corporate farms and obtain their own separate physical land parcels. However, for a number of reasons, few have chosen to leave the large corporate farms and have often leased back their land shares to the large farms. Thus, the farm structures have not changed significantly in the Russian Federation since the breakup of the Soviet Union and large farms still dominate, with the land now being owned by the rural population in the form of land shares. In 2006, of the 220 million ha of agricultural land, some 191 million ha or 86 percent were utilized, with the large corporate farms using 72 percent. Private households and individual farms used the remaining 28 percent. It is estimated that 44 million families owned land (both in shares and physical parcels) in 2002 and almost every rural household has become a landowner.<sup>164</sup> Usually the rural households own a small physical household plot with an average size of 0.43 ha (in 2002) and a share in the corporate farm in the village. A survey from 2006 indicated that the average size of land owned in the form of land shares represented around seven ha. The land market in the Russian Federation is almost completely dominated by lease agreements while land sales are much less common.

### 3.5.3 Ukraine

In Ukraine, the land reform after 1990 took the same initial steps as in the Russian Federation, with both countries then being part of the Soviet Union. In 1990, the Ukrainian Soviet Republic passed the first *resolution on land reform*, by which all land in the country became subject to reform.<sup>165</sup> Ukraine declared its independence from the Soviet Union in October 1991.

Land reform in Ukraine has been implemented in two stages: 1990-9; and from 2000 onwards. In 1991, the *law on peasant farms* was adopted. Since the land was still

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<sup>160</sup> Wegren, S. (2008): *The Limits of Land Reform in Russia*. Problems in Post –Communism. Vol. 55, no. 2, March/April 2008, pp. 14-24.

<sup>161</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. Pp. 7-12.

<sup>162</sup> Lerman, Z. et al, (2004): *Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries*. Lexington Books. P. 84.

<sup>163</sup> Ibid. p. 95.

<sup>164</sup> Wegren, S. (2008): *The Limits of Land Reform in Russia*. Problems in Post –Communism. Vol. 55, no. 2, March/April 2008, pp. 15-16.

<sup>165</sup> Lerman, Z. et al (2007): *Rethinking agricultural reform in Ukraine*. IAMO and FAO. Pp. 15-29.

owned by the state, the law provided that individuals who wanted to start small private farms could receive up to 50 ha of agricultural land in lifetime inheritable possession. The new *land code* from 1992 laid the foundation for privatization of state-owned agricultural land in land shares. During 1992-3, 12 000 collective and state farms were transformed into so-called collective agricultural enterprises (CAE). In the next step, the CAEs were privatized through land shares that were distributed to the employees and pensioners of the collective and state farms. After a *presidential decree* was issued in 1995, the new owners of the land shares had the right to withdraw from the large farms and convert the paper land shares to one or more physical parcel(s), and to establish a private individual family farm or to lease out the land to other farmers. However, in the 1990s, few chose to withdraw from the large farms and in practice the process was often difficult for a number of reasons, as in the Russian Federation. By the end of 1999, more than six million rural residents had received paper land shares for the ownership of agricultural land as well as non-land assets of the former collective and state farms. The privatization of collective and state farms in the form of distribution of land shares to the rural population during 1990-9 had little effect on the farm structure. The large-scale corporate farms continued “business as usual” and were still subsidized by the state budget.

As in the Russian Federation, the household plots (where rural families had the individual use rights long before the breakup of the Soviet Union) were registered as individual property during the 1990s. Household plots are regulated by the *law on household plots* from 2003.

The second phase of the Ukrainian land reform began with a *presidential decree* in December 1999 that confirmed the right of the land share owners to have the land distributed as physical land parcel(s) and subsequently led to the large-scale conversion from land shares to physical parcels. According to the decree it was also possible to enlarge the household plot with the physical land parcel(s) from the converted land shares. Nearly seven million rural residents became owners of physical land parcels with an average holding size of 4.2 ha.<sup>166</sup> In 2005, about 70 percent of the agricultural land, or 80 percent of the arable land, was physically owned by individual rural owners. Land titles for the distributed physical parcels have been registered with support from international donors. The average size of household plots grew from 0.5 ha to 2.5 ha in 2004. The land used by family farms increased from 1 million ha in 1999 to 3.5 million ha in 2002.

The farm structures in Ukraine after the second phase of land reform from 2000 are still dominated by large corporate farms, the successors to the collective and state farms. In 2004, these farms used 59 percent of the total agricultural land and managed the land through lease agreements with state, municipalities and private owners.<sup>167</sup> The individual sector, however, has developed dramatically since 1990 and in 2004 it used 41 percent of the total agricultural land. Of this figure, household plots accounted for 33 percent and commercial family farms for eight percent. An FAO survey in 2005 found that the average rural household owned 4.6 ha of agricultural land, divided into 2.7 parcels.<sup>168</sup> Land fragmentation is a relatively small problem in

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<sup>166</sup> Ibid. P. 22.

<sup>167</sup> Ibid. P. 29.

<sup>168</sup> Ibid. Pp. 69-71.

Ukraine as most of the agricultural land is still used in large fields by corporate farms or commercial family farms.

The *land code* opened the way for some land transactions from 2001 but also introduced a moratorium on buying and selling of agricultural land until the beginning of 2008. The moratorium has since been extended a number of times due to political discussions about the opening of the Ukrainian agricultural land market, with the latest being in December 2011 when it was extended until the beginning of 2013.<sup>169</sup>

#### 3.5.4 Belarus

Belarus took the same initial steps towards land reform as the other Western CIS countries in 1990 while still being part of the Soviet Union. But since then not much has happened and practically no attempts have been made to restructure the traditional large-scale corporate farms. Belarus still does not allow private ownership of agricultural land. The *law on landownership* adopted in 1993 allowed private ownership to household plots of up to one ha.<sup>170</sup> The 1999 *land code* confirmed that citizens may own up to one ha of agricultural land in a household plot and up to 0.25 ha of agricultural land under and around a private house.<sup>171</sup> Additional land has to be leased from the state. The farm structures (except for the household plots which were already in individual use during the Soviet era) are still completely dominated by large-scale state subsidized corporate farms.

#### 3.5.5 Conclusions

The four western CIS countries, Moldova, the Russian Federation, Ukraine and Belarus, all started land reform in 1990 while being part of the Soviet Union. Initially, Moldova, Russia and Ukraine privatized the collective and state farms through distribution of paper land shares to the rural population. All three countries formally allowed the new owners of the land shares to withdraw from the large corporate farms and convert their land shares to physical parcels of agricultural land. However, this only happened in relatively few cases for a number of reasons. In Russia, it is still most common to own the agricultural land in the form of land shares which are leased out. Household plots are privately owned in all four countries and registered as such. In Belarus, practically no attempts have been made to restructure the traditional large-scale corporate farms. Belarus still does not allow private ownership of agricultural land, and ownership is allowed only for household plots of up to one ha.

In a second phase, Moldova (from the mid-1990s) and Ukraine (from 2000) distributed the agricultural land to the rural population in physical parcels. Despite the physical distribution in Ukraine from 2000, to a large degree the Soviet-era farm structures remain intact as most of the land is still used by the large-scale corporate farms. In Moldova, the physical distribution in the late 1990s has led to a dualistic farm structure which is dominated by many small and fragmented family farms and with a few large corporate farms mainly operating on land leased in.

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<sup>169</sup> Bilak, D. et al (2012): *Ukraine: Extension of Agricultural Land Moratorium*. Article written for Law-Now, CMS Cameron McKenna's free online information service.

<sup>170</sup> Lerman, Z. et al (2007): Rethinking agricultural reform in Ukraine. IAMO and FAO. P. 70.

<sup>171</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. Pp. 7-12.

Restitution of the pre-collectivization ownership rights to agricultural land has not been high on the political agenda in the four Western CIS countries and no attempts for restitution have been made. The main reason for this is most likely that the land was nationalized from the former private owners more than 60 years before the recent land reforms began in 1990. This, however, was not the situation in the Western part of Moldova (west of the Dnistr river) and the Western (former Polish) part of Ukraine where the agricultural land was nationalized by the Soviet Union after WWII. This differs from the land reform approach of the three Baltic countries, which were also annexed by the Soviet Union after WWII and where restitution was chosen as the main land reform approach after 1990 (see section 3.1).

### 3.6 Transcaucasus countries

The three Transcaucasus countries, **Armenia**, **Georgia** and **Azerbaijan**, were incorporated into the Soviet Union in the early 1920s. All three countries acquired independence in 1991 when the Soviet Union broke up. Ethnic tension in the early 1990s led to armed conflicts between Armenia and Azerbaijan over the Nagorno-Karabakh area and in Georgia within two regions, Abkhazia and South Ossetia.

During the Soviet era all agricultural land was state-owned and managed by large-scale cooperatives and state farms. In all three countries, the land reform process was driven by an urgent political need in response to poverty and hunger after the collapse of the command economy in the Soviet Union.<sup>172</sup> At the start of the transition, a significant number of the urban population lost their jobs and moved from the cities to the villages where they and their families originally came from.

#### 3.6.1 Armenia

Land reform in Armenia began in 1991 and was already completed in 1993. The state-owned agricultural land was distributed to the rural families in an equal way.<sup>173</sup> However, the amount of land distributed to the families varied greatly depending on the ratio between the available state land fund and number of eligible families in each community. For each rural community, 75 percent of the agricultural land was distributed among the eligible families, with the land being held by the family members in co-ownership. Families with more members got a larger share than those with fewer members. The different categories of land in the community were divided and a family normally received 1-2 parcels of arable land, one parcel of vineyard and one parcel of orchard. A lottery was held to determine the location of the family parcels in the village.<sup>174</sup>

Some 25 percent of the agricultural land and all pasture areas were kept under state ownership but were available for lease to private individuals. This state land is now managed by the local community councils.

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<sup>172</sup> Müller, W. et al. (2001): Strategy for Land Consolidation and Improved Land Management in Georgia – Pre-Feasibility Study. FAO. P.5.

<sup>173</sup> Chluba, K. and Schmidt-Kallert, E. (2001): *Strategy for Land Consolidation and Improved Land Management in Armenia – Pre-Feasibility Study*. FAO. P.13.

<sup>174</sup> Giovarelli, R and Bledsoe, D. (2001): *Land Reform in Eastern Europe*. FAO. P. 18.

The farm structure in Armenia after the land reform of the early 1990s is dominated by a large number of small family farms. The land reform resulted in the establishment of 324 000 private family farms. The average size of agricultural holdings is 1.21 ha, normally distributed in 3-4 land parcels, and with an average parcel size of around 0.3 ha. In the fertile but overpopulated Ararat Valley the average holding size is as little as 0.48 ha. A relatively small number of larger collective and corporate farms still exist with an average size of 20 ha per farm, often using leased agricultural land from the 25 percent state land reserve. The level of fragmentation of agricultural land today is often higher than at the time of the distribution due to inheritance between family members. The new ownership of the heirs is often not formally registered to avoid the registration costs.

Armenia has so far not taken political decisions for the mass privatization of the remaining state agricultural land. However, the local community councils have the management rights of the state (or public) land and can decide to sell the land.

### 3.6.2 Georgia

In Georgia, land reform began in 1992 after the *land privatization decree* was issued. In the first phase, the formal ownership of the land was kept by the state and the agricultural land was given to the rural population for inheritable lifetime use.<sup>175</sup> About 30 percent of all agricultural land and 60 percent of arable land and perennials were distributed in the form of the lifetime use rights to the rural families in a rapid process during 1992-3. Pasture lands were not part of the process. The actual transfer of landownership became possible only following the adoption of the *law on agricultural landownership* in 1996, after which the de-facto privatization was registered.

The political goal of the land reform process was to create two main agricultural sectors in Georgia: a subsistence sector, and a market-oriented sector controlled by larger leaseholders.<sup>176</sup> The reason for keeping a considerable part of the agricultural land in state ownership was the wish to make land available for the market-oriented farms to lease. Furthermore, most of the remaining state land is less fertile and often located in remote areas (often hilly or mountainous).<sup>177</sup>

The maximum area of agricultural land to be distributed to a family was 1.25 ha in the lowlands and up to five ha in the highlands. The distribution was done according to three categories. Families whose members had been engaged in the farming activities of the large-scale state farms during the Soviet era were entitled to receive up to 1.25 ha. Other families in rural areas received up to 0.75 ha, and families in urban areas had a right to receive up to 0.25 ha of agricultural land.

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<sup>175</sup> Lerman, Z. (2004b): *Successful land Individualization in Trans-Caucasia: Armenia, Azerbaijan, Georgia*. In Macey, D. et al. (edt.) (2004): *Building Market Institutions in Post-Communist Agriculture*. Lexington Books. Pp.. 58-60.

<sup>176</sup> Ebanoidze, J. (2003): *Current Land Policy Issues in Georgia*. Land Reform Special. FAO. P. 125-127.

<sup>177</sup> Müller, W. et al. (2001): *Strategy for Land Consolidation and Improved Land Management in Georgia – Pre-Feasibility Study*. FAO. P.5-7.

The land reform process in Georgia resulted in the establishment of a large number of small private family farms with an average holding size of only 0.9 ha and fragmented into an average of 4-5 parcels. Thus, the average parcel size is 0.2 ha, which is the smallest of all 25 study countries.

In 1996, the State officially began leasing out the state agricultural land that was not designated for privatization.<sup>178</sup> As of 2002, 42 000 natural persons (often family farmers) had leased 464 000 ha of state agricultural land (on average 11 ha), and 6 000 legal persons (i.e. corporate farms) had leased 439 000 ha (on average 73 ha). Thus, the farm structures in Georgia are dominated by a large number of very small, privately-owned subsistence family farms, and with a considerable number of both medium-sized family farms and larger corporate farms, with the two latter types mainly operating on leased state agricultural land. So far, Georgia has not taken political decisions for the mass privatization of the remaining state agricultural land.

### 3.6.3 Azerbaijan

Land reform in Azerbaijan began in 1996, later than in the two other Transcaucasus countries, with the adoption of the *law on land reform*. The *law on privatization of state property*, adopted in 1993, gave the general principles and procedures for the privatization of all state property.<sup>179</sup> In 1996, unlike Armenia and Georgia, most of the agricultural land in Azerbaijan was still managed by large collective farms. In the first phase of land reform, the rural families received only paper certificates of entitlement to unspecified land shares.<sup>180</sup>

Similar to the other two countries, Azerbaijan chose in the second phase of land reform from 1997-8 to distribute state agricultural land to the rural families in physical parcels. The initial phase of the distribution process was carried out through the World Bank-funded Farm Privatization Project, which was a pilot project with the objective to establish the model for large-scale privatization and distribution.<sup>181</sup> The land to be privatized was divided into parcels of equal value (taking into account location and soil quality). Then the eligible families were allocated land parcels after a lottery in each village. The local distributions were approved by the state reform commissions, the new private ownership was registered, and the ownership certificates were issued.

The land reform was completed in 2004. Only the best agricultural land was subject to privatization (in total 3.62 million ha). Overall, 76 percent of the total arable land and 70 percent of the total meadowland were privatized. Pastures were kept in state ownership. In total, 869 000 rural families were each distributed an average of 1.6 ha of agricultural land, normally divided into 4-5 parcels.

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<sup>178</sup> Tsomaia, E. et al. (2003): *The other Agricultural Land Reform in Georgia: State Leasing of land to Private Farmers*. Prepared by Terra Institute under an agreement with USAID. P. 3-7.

<sup>179</sup> UN ECE Committee on Housing and Land Management (2007): *Land Administration Review: Azerbaijan*. P. 4-8.

<sup>180</sup> Lerman, Z. (2004b): *Successful land Individualization in Trans-Caucasia: Armenia, Azerbaijan, Georgia*. In Macey, D. et al. (edt.) (2004): *Building Market Institutions in Post-Communist Agriculture*. Lexington Books. Pp. 53-66.

<sup>181</sup> World Bank (2008): *Project performance assessment report; Farm Privatization Project, Azerbaijan*.

Today in Azerbaijan, the farm structures are characterized by many small and medium-sized family farms and relatively few larger corporate farms. Some 80 percent of the family farms chose to farm the land themselves.<sup>182</sup>

#### **3.6.4 Conclusions**

All three Transcaucasus countries distributed the state agricultural land to rural families free of charge as the main land reform approach. Azerbaijan first distributed the land in shares and subsequently in physical parcels. Armenia and Georgia distributed physical parcels right away. All three countries still have a considerable unprivatized land fund which is leased out to family farms and corporate farms. The average sizes of agricultural holdings are small (between 0.9 and 1.6 ha) and distributed in a number of parcels. Thus, the land reform process has led to a complete breakup of the Soviet era large-scale farms and resulted in farm structures that are dominated by small agricultural holding sizes, and with severe land fragmentation. All three countries still have substantial shares of agricultural land that remain state owned and so far with no plans for further mass-privatization.

All three Transcaucasus countries have established unified land registration systems, and during the late 1990s and early 2000s they registered the land parcels distributed in the 1990s.

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<sup>182</sup> Dudwick, N. et al. (2005): *A Stocktaking of Land Reform and Farm Restructuring in Bulgaria, Moldova, Azerbaijan and Kazakhstan*. P. 30.

#### **4. What conclusions can be drawn from the study of land reform and its outcome in Central and Eastern Europe?**

This paper fills a gap by providing an updated overview of land reform in Central and Eastern Europe. Several earlier publications had provided a comprehensive coverage of countries, but with the omission of the countries of ex-Yugoslavia.

The paper identifies that land reform approaches since 1989 have varied considerably among the 25 study countries. In all the countries where land reform has been applied, the political decisions were driven by considerations of equity and political justice, and yet there was a considerable variety in the design of land reforms.

The paper shows that the land reforms have resulted in different outcomes, including quite different farm structures. Before 1989, the farm structures in the study countries (with the exception of Poland and Yugoslavia) were dominated by large-scale cooperatives and state farms. The land reforms after 1989 have resulted in a complete breakup of these farm structures in some of the countries, while in other countries the farm structures remain dominated by large-scale corporate farms (often being the successors of the cooperatives and state farms) that now operate on lease agreements with the private owners of the land. The differences in the farm structures that emerged from the land reform process can, at least to a large degree, be explained by the chosen land reform approaches in each country.

The analysis carried out for this paper confirms the need, and sets the foundation, for a more extensive study to address the research questions:

- *What is the linkage between the chosen land reform approach and the outcome in the form of farm structure and land fragmentation?*
- *Under which conditions is land fragmentation a barrier for the development of the rural land market and the agricultural and rural sector in general?*

The aim and scope of such a more extensive study are briefly described below.

##### ***Towards a better understanding of land reform approaches***

First, further study could provide a more complete overview of land reform approaches applied in all the countries of Central and Eastern Europe from 1989 and onwards. Drawing on this paper and other sources, such a study should identify both the main and secondary land reform approaches applied in each country and provide a fuller and updated overview. Furthermore, such a study should enable more detailed comparisons between the countries in the six geographical country groups and in general. It should also be able to provide explanations of some of the differences in political history and pre-collectivization ownership structures that determined the choice of land reform approaches in the countries.

##### ***Towards a better understanding of the coherence between land reform and land fragmentation***

Second, a more extensive study could lead to a better understanding of the farm structures that developed during and after the land reform process. This should allow for more informed discussions on the coherence between the choice of land reform approach and land fragmentation.

It has often been stated that land reform in Central and Eastern Europe has led to farm structures dominated by small and uncompetitive family farms as well as to severe land fragmentation. This is the case in some countries, such as Albania, Armenia and Georgia. But the actual situation is much more nuanced than that, as in other countries, such as the Czech Republic, Slovakia and the Russian Federation, land fragmentation has had only a minor limiting impact on the actual land use. In yet other countries, such as Poland and the seven countries of ex-Yugoslavia, severe land fragmentation exists in both ownership and land use. However, this was not caused by the recent land reforms. Despite the limitations in available data, the current situation of land fragmentation (i.e. of ownership and of land use) in the 25 study countries could be assessed in a more extensive study, and linked to the land reform approaches applied in each country.

***Towards a better understanding of the impact of land fragmentation***

Third, a more extensive study could establish a model of the impact of land fragmentation on land market development and on agricultural and rural development. Work on this aspect should draw on the classical theory on land fragmentation and the few theoretical contributions available that focus on land fragmentation in Central and Eastern Europe.

Land fragmentation is often referred to without using a clear definition of “fragmentation”. The key to understanding the impact of land fragmentation in the Central and Eastern European context lies in the intersection between the fragmentation of landownership and the fragmentation of land use. By building on this paper, the existing analysis of classical theory of land fragmentation (mainly developed between 1950-85), and the albeit limited existing analysis of theoretical aspects of land fragmentation in Central and Eastern European countries since 1989, it should be possible to further contribute to the theoretical framework dealing with land fragmentation in Central and Eastern European countries. Specifically, a more extensive study could lead to a model of the impact from land fragmentation, and at the same time answer the second part of the research question posed above:

*Under which conditions is land fragmentation a barrier for the development of the rural land market and the agricultural and rural sector in general?*

***Towards a better understanding of policy***

Fourth, a more extensive study could provide additional insights to improve policy advice to governments and donors for future land reform and land privatization initiatives in the Central and Eastern European countries and the Central Asian countries of the former Soviet Union. A more extensive study could address the question:

*How should you design the land reform approach if you want to dismantle the large-scale corporate farms and build individual commercial farms without creating excessive land fragmentation?*

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