

## I. ARTYKUŁY

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### **Area standards regulatory systems from a comparative perspective\***

**Sistemi regolatori degli standard relativi alla superficie:  
una prospettiva comparata**

This article aims to determine the current significance of area-based standards as instruments for influencing agricultural structures in selected European countries. The analysis shows that these standards do not constitute a consistent regulatory framework; rather, they take the form of minimum thresholds that restrict the division of agricultural property, maximum limits on property acquisition or ownership, or flexible criteria that trigger administrative scrutiny of transactions. They all serve the same basic function: to protect the rational ownership and use of agricultural land. In particular, they counteract excessive fragmentation, limit land concentration and prevent the emergence of economically inefficient farms. However, it is argued that in the modern era, area-based standards are no longer a self-sufficient instrument. Their practical usefulness depends on their link with flexible economic, regional, and functional criteria. They should therefore be viewed as part of a broader policy to protect the agrarian structure, rather than as rigid, abstract area limits.

**Keywords:** agricultural law, agricultural real estate, area standards, agrarian structure, land fragmentation, land concentration

Lo scopo dell'articolo è accertare l'attuale rilevanza delle norme relative alla superficie quali strumenti di incidenza sulla struttura agraria in alcuni Paesi europei. L'analisi evidenzia come tali norme non diano luogo a un modello regolatorio unitario: esse possono operare

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quali soglie minime volte a limitare il frazionamento degli immobili agricoli, quali limiti massimi all'acquisto o alla detenzione di immobili, oppure quali criteri flessibili idonei ad attivare forme di controllo amministrativo delle transazioni. La loro funzione comune risiede nella tutela di un assetto razionale della proprietà e dell'uso dei terreni agricoli, in particolare mediante il contrasto all'eccessiva frammentazione, il contenimento della concentrazione fondiaria e la prevenzione della formazione di aziende economicamente inefficienti. Nell'articolo si avanza la tesi secondo cui, allo stato attuale, le norme relative alla superficie non costituiscono più uno strumento autosufficiente in quanto la loro effettiva utilità pratica è subordinata al coordinamento con criteri flessibili di natura economica, regionale e funzionale. Pertanto, esse dovrebbero essere inquadrare quali elementi di una più ampia politica di tutela della struttura agraria, piuttosto che come limiti rigidi e astratti relativi alla superficie.

**Parole chiave:** diritto agrario, immobili agricoli, standard relativi alla superficie, struttura agraria, frammentazione fondiaria, concentrazione fondiaria

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## Introductory remarks

Area standards constitute one of the classic instruments of legal influence on the agrarian structure. Their function is not limited solely to the technical determination of the permissible size of plots, but serves to achieve broader agricultural policy objectives, such as counteracting excessive fragmentation of land, limiting the concentration of agricultural land, and protecting the economic viability of farms intended for agricultural production. In the literature area standards are described as an instrument with both positive effects (shaping a new, desirable structure) and negative ones (maintaining the existing unsatisfactory structures).<sup>1</sup>

In the legislation of European countries, these standards take various forms. They may appear as minimum area thresholds restricting the division of agricultural real estate, as maximum limits on the acquisition or ownership of agricultural land, or as flexible criteria triggering administrative scrutiny of transactions involving the acquisition of real estate.<sup>2</sup> Their significance

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<sup>1</sup> K. Marciniuk, *Prawne instrumenty ingerencji władzy publicznej w obrót nieruchomościami rolnymi jako środki kształtowania ustroju rolnego*, Białystok 2019, p. 228.

<sup>2</sup> In Polish literature, this instrument is classified somewhat differently, indicating that, in principle, the area-based standard may be applied as the total area of land comprising an agricultural holding (as is e.g. in the case of the Polish definition of a family farm), or as the total area of land to which a specific person holds a legal title, regardless of its connection with other land forming part of the holding, or as the area of individual plots of agricultural land taken separately, disregarding their economic links with other land. See: R. Michałowski,

in the trade in agricultural real estate therefore lies not only in setting the boundaries of permissible legal acts, but also in shaping the desired structure of agricultural holdings. In this context, they are therefore defined in academic literature as an objective instrument, dependent on the central or local legislator who established them, yet independent of the practice of administrative authorities. They are also static in nature, as they are based solely on the criterion of land, rather than on production or employment criteria: the area of a real estate or farm does not necessarily reflect the scale of production.<sup>3</sup>

The research objective of this article is to attempt to answer the question of what the actual significance of area standards as an instrument for influencing the agrarian structure of certain European Union Member States is today, and to determine what functions they currently fulfil within the framework of regulations relating to the trading of agricultural real estate.

## 1. Minimum area standards

In Spain, the so-called minimum cultivation unit (*unidad mínima de cultivo*) is the primary instrument for counteracting the fragmentation of agricultural land. It specifies the minimum area that an agricultural real estate must retain for its cultivation to be viable. The legal definition of this concept is set out in Article 23(1) of Law 19/1995 on the modernisation of agricultural holdings.<sup>4</sup> In the light of this provision, it is the “sufficient area” that an agricultural real estate must have so that the basic work involved in its cultivation, using standard technical means, can be carried out with satisfactory results, taking into account the socio-economic conditions of the municipality or region in question. The specific size is determined by the individual autonomous communities, usually distinguishing between so-called dry land (*secano*) and irrigated land (*regadío*), according to the individual municipalities within their jurisdiction.<sup>5</sup>

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*Normy obszarowe w obrocie nieruchomościami rolnymi*, “Studia Iuridica Agraria” 2007, vol. VI, p. 157.

<sup>3</sup> K. Marciniuk, *Prawne instrumenty...*, p. 229.

<sup>4</sup> Ley 19/1995, de 4 de julio, de modernización de las explotaciones agrarias, <https://www.boe.es/buscar/act.php?id=BOE-A-1995-16257> [accessed on 31.05.2026].

<sup>5</sup> Despite the lack of uniform values across Spain, typical standards arising from the regulations in force in individual autonomous communities with regard to municipalities located within their boundaries may be identified. Dry land (*secano*) is usually 2–4 ha, whilst it is usually 0.20–0.50 ha, and sometimes even 0.10 ha. Cf. <https://content.lefebvreelderecho.com/>

The fundamental principle of this provision is that it is not possible to effectively divide or separate a part of agricultural land by means of a juridical act if, as a result of that act, plots smaller than the minimum cultivation unit are created. A breach of this prohibition renders the transaction void and ineffective between the parties as well as *vis-à-vis* third parties, including the division of an estate, where this principle must also be respected, regardless of the testator's wishes. In practice, therefore, the mechanism of this regulation works as follows: first, it is checked whether the real estate is agricultural in nature and whether it constitutes, for example, dry or irrigated land. Next, the minimum cultivation unit applicable in the region is determined and – if the division of the real estate would result in plots smaller than this area – the completion of the transaction is, in principle, impossible, unless a specific statutory exception applies. Notaries and land registry officials (*registro de la propiedad*) are responsible for monitoring compliance with the regulations concerning the minimum cultivation unit.

The most important exceptions provided for in Article 25 of Law 19/1995, under which the division of agricultural land may take place without regard to the minimum unit of cultivation, relate to cases of transfer of ownership to owners of adjacent land, the separation of part of the land for development or permanent non-agricultural use (although in this case it is necessary to obtain the relevant administrative authorisation), as well as certain cases relating to the acquisition of agricultural real estate by its tenant. This institution is also aligned with spatial planning regulations: in rural areas, urban-style land parcelling is prohibited.

Spanish agricultural law doctrine emphasises that this is a tool to counter-act excessive fragmentation of land (so-called “minifundisation”). Authors point out that this regulation is intended to prevent the excessive division of agricultural land and to ensure the existence of farms of a size that allows for their economic efficiency. In this context, the minimum cultivation unit is not merely a guideline defining the optimal size of a farm, but constitutes a binding restriction on property rights, which prevents the division of agricultural land below a specified threshold. On the other hand, however, it is noted that although the formal significance of this institution is very important, in practice there are ways of circumventing the regulations on the minimum unit of cultivation quite easily (in particular by making appropriate changes

to the designated use of agricultural land or by utilising the institution of lease – to which the regulations on this institution do not apply.<sup>6</sup>

The Portuguese concept of the “minimum cultivation unit” (*unidade mínima de cultura*) is similar in nature to the Spanish *unidad mínima de cultivo* and also constitutes a minimum area below which the law generally does not permit the division of agricultural land. The current definition of this concept is set out in Article 49 of the Portuguese Act No. 111/2015 on the organisation of the agricultural structure.<sup>7</sup> In light of this regulation, it is the minimum area of agricultural land that allows for its sustainable use through the application of ordinary means and resources, appropriate for achieving a satisfactory result, taking into account the characteristics of the land and the geographical, agricultural and forestry conditions of the area in question. This definition corresponds to the provision set out in Article 1376 of the Portuguese Civil Code, according to which land suitable for cultivation may not be divided into plots smaller than the minimum unit established for the area in question.

As in Spain, the Portuguese minimum cultivation unit also acts as a mechanism to counteract excessive fragmentation of land. Its aim is to prevent the division of agricultural land into plots so small that they become economically inefficient or difficult to manage rationally. Its significance is evident not only in the context of the division of agricultural real estate arising from *inter vivos* transactions involving such assets, but also, in a broader context, in the context of land surveying or administrative consolidation proceedings.

The minimum unit is defined for mainland Portugal according to NUTS III regions (third-level statistical units in the EU’s *Nomenclature of Territorial Units for Statistics* – functioning as 25 smaller sub-regional units) and depends on the classification of land as irrigated (*regadio*), dry (*sequeiro*) and forest (*floresta*). This means that there is no single value for the whole country – different values apply depending on the region and type of land, and as a rule the size of this unit is – for irrigated land (*regadio*) – approximately

<sup>6</sup> On the subject of the minimum cultivation unit, including in a historical context: F.J. Galisteo Soldado, *La unidad mínima de cultivo. Su incidencia en la legislación agraria*, “Boletín de la Real Academia de Córdoba de Ciencias, Bellas Letras y Nobles Artes” 2025, no. 174, pp. 371–395; J.M. de la Cuesta Sáenz, *Régimen de las unidades mínimas de cultivo*, “Anuario jurídico de La Rioja” 1997, no. 3, pp. 59–74. In Polish literature, see in particular: A. Lichorowicz, *Status prawny gospodarstw rodzinnych w ustawodawstwie krajów Europy Zachodniej*, Białystok 2000, p. 134; K. Marciniuk, *Prawne instrumenty...*, pp. 235–236.

<sup>7</sup> Lei nº 111/2015, de 27 de Agosto, Regime Jurídico da Estruturação Fundiária, [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=2420A0049&nid=2420&tabela=leis&pagina=1&ficha=1&nversao=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=2420A0049&nid=2420&tabela=leis&pagina=1&ficha=1&nversao=) [accessed on 31.05.2026].

0.5–2 ha, for dry land (*sequeiro*): approximately 2–8 ha, and for forest land (*florestal*): approximately 2–20 ha.

The mechanism of this institution also resembles the Spanish model: once the agricultural nature of the real estate has been established, the relevant minimum unit is determined in accordance with the applicable regulations, and if the planned division results in a plot smaller than this unit, such division is, in principle, inadmissible. Compliance with the principles described is the responsibility of the authorities conducting administrative proceedings (e.g. surveying, land consolidation) and notaries documenting juridical acts leading to the division of agricultural real estate.

A breach of the provisions on the minimum cultivation unit affects the validity of a juridical act leading to the division of agricultural land. However, the literature indicates that even a division that is invalid due to a breach of the minimum cultivation unit requirement does not preclude the subsequent acquisition of ownership of the real estate by adverse possession. This institution is also relevant to the right of pre-emption enjoyed by owners of neighbouring properties. Under Article 1380 of the Portuguese Civil Code,<sup>8</sup> the right of pre-emption applies where the properties (the one being sold and the neighbouring one) have an area smaller than the relevant minimum unit of cultivation.

As in Spain, many doubts are raised about the actual practical effectiveness of this institution. Agricultural literature emphasises that although this institution is a classic tool for combating excessive land fragmentation, its effectiveness is limited by the fragmentation of regulations and difficulties in their application. Furthermore, statistical studies show that its application does not directly lead to an increase in the area of agricultural land.<sup>9</sup>

A mechanism similar to the instruments described above, which are still in use in Spain and Portugal, was provided for by the former Article 846 of the Italian Civil Code – in the form of the so-called minimum cultivation unit (*minima unita colturale*). Under this provision, the term was to be understood as the area of land necessary and sufficient for the work of

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<sup>8</sup> Decreto-Lei n.º 47344 de 25 de novembro Aprova o Código Civil e regula a sua aplicação – Revoga, a partir da data da entrada em vigor do novo Código Civil, toda a legislação civil relativa às matérias que o mesmo abrange, <https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/1966-34509075> [accessed on 31.05.2026].

<sup>9</sup> For further information on the application of this institution in Portugal: A.C. Pinheiro, M. Neto, J. Coelho, M. Tristany, *Fraccionamento de prédios rústicos*, “Ingenium” 2007, no. 98, pp. 78–82, <https://dspace.uevora.pt/rdpc/handle/10174/1916> [accessed on 31.05.2026]. In Polish literature: K. Marciniuk, *Prawne instrumenty...*, p. 235.

a single farming family, and in the case of land not assigned to a farm – for the rational cultivation of the land in accordance with the principles of good agricultural practice. It was therefore not a fixed value expressed in hectares, but a definition based on functional and economic criteria. Articles 846–848 of the Italian Civil Code further provided that the division of agricultural real estate below this unit was prohibited, and that its specific size was to be determined administratively for individual territories. In practice, however, such regulations were never actually implemented.<sup>10</sup>

Under current legislation, the Italian minimum cultivation unit no longer exists – Legislative Decree No 99 of 29 March 2004<sup>11</sup> (Article 7) introduced a new concept – the single holding (*compendio unico*) – that replaced the repealed Articles 846–848 of the Civil Code. Consequently, there is currently no general, binding minimum area standard for agricultural real estate in Italy that would restrict their division, and the legislator has moved away from this concept in favour of more flexible instruments linked to economic efficiency. The institution that replaced the minimum cultivation unit, i.e. the *compendio unico*, constitutes an area of land ensuring a minimum level of farm profitability, as defined in regional plans. It is worth emphasising that the *compendio unico* is not an abstract concept deriving directly from a legislative act – it must be established by means of a formal juridical act, i.e. a declaration by the owner made by a notary in the form of a deed, comprising a declaration of the creation of the *compendio unico* and an indication of the specific agricultural real estate comprising it. This declaration may be submitted, in particular, upon the acquisition of agricultural real estate and is linked to the access to tax relief, but also entails a prohibition on division (indivisibility) for a specified period (usually 10 years), which means that any action leading to its division is invalid.<sup>12</sup>

Regulations adopted in some European countries, which prevent the division of agricultural or forest land below a certain strictly defined minimum area, have a practical significance similar to that of the minimum cultivation unit sizes described above, which are in force in Spain and Portugal.

<sup>10</sup> <https://www.treccani.it/enciclopedia/minima-unita-culturale> [accessed on 26.04.2026]. In Polish literature: A. Lichorowicz, *Status prawny...*, p. 101; K. Marciniuk, *Prawne instrumenty...*, p. 236.

<sup>11</sup> Decreto legislativo 29 marzo 2004, n. 99 Disposizioni in materia di soggetti e attività, integrità aziendale e semplificazione amministrativa in agricoltura, a norma dell'articolo 1, comma 2, lettere d), f), g), l), ee), della legge 7 marzo 2003, n. 38, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2004-03-29;99!vig=> [accessed on 31.05.2026].

<sup>12</sup> On the subject of the *compendio unico*: V. Lacopo, *Il compendio unico. Profili critici e sgravi fiscali*, Padua 2013.



For example, Slovak Act No. 180/1995 Zbierka zákonov<sup>13</sup> prohibits the fragmentation of agricultural and forest land, such that the division of an existing plot may not result in an agricultural plot with an area of less than 3,000 m<sup>2</sup> or a forest plot with an area of less than 5,000 m<sup>2</sup> (Section 23(1) of Act No. 180/1995 Coll.), although this provision applies to plots situated outside the built-up area of the municipality. If the division were to result in an agricultural plot with an area of less than 3,000 m<sup>2</sup> or a forest plot with an area of less than 5,000 m<sup>2</sup>, such a division is, in principle, not permitted at all. If, however, the division would result in an agricultural plot with an area of between 3,001 and 20,000 m<sup>2</sup> or a forest plot with an area of between 5,001 and 20,000 m<sup>2</sup>, the purchaser is obliged to pay a special additional fee. These restrictions are not, however, absolute. In particular, they do not apply where a plot is being subdivided for construction purposes or for a purpose for which it could be expropriated as part of a land consolidation procedure, or when a plot is merged with adjacent land and no new, an independent plot is created, or in cases where the plot is designated for recreational purposes as specified in the spatial development plan.

Consequently, Slovak law does not define a ‘minimum cultivation unit’ in accordance with an economic-agronomic definition, as in Spain or Portugal, but establishes a fixed statutory minimum area threshold below which plots may not, as a rule, be divided. The practical significance of this regulation is considerable, primarily because it prevents further fragmentation of agricultural land, limiting transfers of ownership and cadastral divisions of plots in the land register.<sup>14</sup>

Polish regulations also largely mirror the arrangements adopted in Slovakia. Under Article 93(2a) of the Real Estate Management Act,<sup>15</sup> it is prohibited to subdivide agricultural or forest plots smaller than 0.3 ha. There are essentially two exceptions to this rule: an agricultural or forest plot of less than 0.3 ha may be subdivided if it is intended to enlarge a neighbouring real estate or to adjust the boundaries between neighbouring properties. This restriction does not apply to plots subdivided for internal roads. In practice,

<sup>13</sup> Zákon NR SR č. 180/1995 Z. z. z 11. júla 1995 o niektorých opatreniach na usporiadanie vlastníctva k pozemkom, <https://www.mpsr.sk/download.php?fID=8112> [accessed on 31.05.2026].

<sup>14</sup> For a more detailed discussion of Slovak regulations, including in an economic and comparative context: J. Lazikova, L. Rumanovska, I. Takac, Z. Lazikova, *Land fragmentation and efforts to prevent it in Slovak legislation*, “Agricultural Economics” 2017, no. 12, pp. 559–568; J. Del Corral, J.A Perez, D. Roibas, *The impact of land fragmentation on milk production*, “Journal of Dairy Science” 2011, no. 941, pp. 517–525.

<sup>15</sup> Act of 21 August 1997 on trading in real estate (Journal of Laws of 2026, item 399).



this means that the owner of an agricultural real estate cannot freely divide it into very small plots, e.g. of 500 or 1,000 m<sup>2</sup>. The local authority, the surveyor, the notary and the court maintaining the land and mortgage register must take this threshold into account. Consequently, the regulation in question is primarily an anti-fragmentation measure, but its practical significance is more of a surveying and administrative nature than related to the implementation of agricultural policy.<sup>16</sup>

The solutions described above, involving the introduction of minimum area thresholds limiting the division of agricultural land, are also provided for, for example, in Bulgarian and Cypriot legislation. In Bulgaria, a clear rule applies regarding minimum area thresholds of 0.3 ha for arable land, 0.2 ha for meadows and 0.1 ha for orchards and vineyards. Bulgarian law does not permit the division of land into plots below these thresholds. This solution is considered to be of practical importance given that the process of privatising agricultural land in Bulgaria has led to widespread fragmentation of such land. The problem of fragmentation has not, however, been fully solved.<sup>17</sup>

Cyprus also has clearly defined minimum thresholds for the division of agricultural plots. In particular, the competent authority for approving the division of real estate (Department of Lands and Surveying) states that division is only possible if each new plot has at least: 1,338 m<sup>2</sup> for plantations, vineyards, gardens, forests or land irrigated/suitable for irrigation from a year-round source; 2,676 m<sup>2</sup> for land suitable for irrigation from a seasonal source; or 6,689 m<sup>2</sup> for dry land. These regulations therefore constitute a direct cadastral threshold, meaning that the proposed subdivision will not be approved unless each new plot meets the relevant minimum size.<sup>18</sup>

Germany, however, adopts a different approach in this regard. Under Section 9 of the GrdstVG,<sup>19</sup> consent to the transfer of ownership of agricultural or forest land may be refused if the sale would result in an uneconomical

<sup>16</sup> M. Durzyńska, *Podział nieruchomości*, Warszawa 2021, p. 374 ff.

<sup>17</sup> E. Pawlikowska, P. Popek, A. Bieda, M. Moteva, A. Stoeva, *Analysis of the legal methods of agricultural land protection in Central Europe on the example of Poland and Bulgaria*, "Real Estate Management and Valuation" 2017, vol. 25, no. 2, pp. 58–71, <https://reference-global.com/download/article/10.1515/remav-2017-0013.pdf> [accessed on 31.05.2026]; M. Moteva, M. Mondeshka, A. Stoeva, N. Yarlovska, *Contemporary issues of land use and water management for agriculture in Bulgaria*, "Lucrări științifice" 2014, no. 2, pp. 59–68.

<sup>18</sup> [https://portal.dls.moi.gov.cy/en/application\\_forms/diachorismos-georgikou-agrotikou-akinitou/](https://portal.dls.moi.gov.cy/en/application_forms/diachorismos-georgikou-agrotikou-akinitou/) [accessed on 31.05.2026].

<sup>19</sup> Grundstückverkehrsgesetz (GrdstVG), [https://www.gesetze-im-internet.de/grdstvg/\\_9.html](https://www.gesetze-im-internet.de/grdstvg/_9.html) [accessed on 31.05.2026].

reduction or division of the land (*unwirtschaftliche Verkleinerung oder Aufteilung*). This rule applies where an agricultural plot would become smaller than 1 ha or where a forest plot would become smaller than 3.5 ha.<sup>20</sup> In contrast to the Slovak, Polish, Bulgarian and Cypriot regulations discussed above, this is therefore not an automatic ban on all cadastral divisions, but area standards are taken into account as part of administrative controls in transactions involving agricultural and forest land. The authority may block or make subject to conditions such transactions that harm the agricultural structure. Furthermore, it is worth noting that in Germany, individual federal states also set thresholds above which transactions require approval. For example, Baden-Württemberg exempts certain cases of transfer of ownership of agricultural real estate under 1 ha, or 0.5 ha in the case of viticulture and horticulture, from the obligation to obtain consent.<sup>21</sup> A similar approach is also adopted in the regulations of the Austrian federal states, where the basis for refusing consent for the acquisition of agricultural real estate may be a situation where a given transaction harms the agricultural structure, leads to the creation of plots of an economically unjustified size, or causes excessive fragmentation of agricultural holdings.<sup>22</sup>

## 2. Maximum area limits

Maximum limits, setting an upper ceiling on the amount of agricultural land that may be acquired, are not a common feature of regulations in European Union Member States. By way of example, it may be noted that in Hungary, maximum area limits apply to both the acquisition and possession of agricultural and forest land. According to the general rule, a farmer (*földműves*) may acquire ownership of up to 300 ha of agricultural land, which takes into account land already owned by him. This rule applies not only to the acquisition of ownership but also to limited property rights, such as, in particular, usufruct. Conversely, a natural person who is not a farmer but is

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<sup>20</sup> Eigentumserwerb an land- und forstwirtschaftlichen Grundstücken Wesentliche Regelungen des Grundstücksverkehrsgesetzes, <https://www.bundestag.de/resource/blob/934994/381c9ec87a803c5c41f9a4c0738c1460/WD-7-001-23-pdf.pdf> [accessed on 31.05.2026].

<sup>21</sup> Freigrenzen im Grundstücksverkehrsrecht, [https://www.dnoti.de/fileadmin/user\\_upload/GrdStVG\\_Freigrenzen.pdf](https://www.dnoti.de/fileadmin/user_upload/GrdStVG_Freigrenzen.pdf) [accessed on 31.05.2026].

<sup>22</sup> L. Vranken, E. Tabeau, P. Roebeling, P. Ciaian, M. Rizov, *Agricultural land market regulations in the EU Member States*, JRC technical report, Publications Office of the European Union, Seville 2021, [https://www.econstor.eu/bitstream/10419/331328/1/JRC126310\\_01\\_Vranken\\_etal.pdf](https://www.econstor.eu/bitstream/10419/331328/1/JRC126310_01_Vranken_etal.pdf) [accessed on 31.05.2026].

a national of the country or a citizen of an EU Member State may, as a rule, acquire ownership of land only if the land they own or hold, together with the land they intend to acquire, does not exceed 1 hectare in total. An exception to this rule is, for example, the acquisition from a close relative and the acquisition of land for recreational purposes. Consequently, with regard to the 1-hectare area limit, stricter restrictions apply to all land held by a given person, regardless of the legal title.<sup>23</sup> The above-mentioned restrictions do not apply to land acquired in exchange for compensation received for the expropriation of another real estate, land acquired through the termination of joint ownership or the division of joint property between spouses, or as part of an exchange.<sup>24</sup>

Furthermore, Hungary has an interesting provision regarding a separate limit on the possession of agricultural land. A farmer may, in principle, acquire the possession of agricultural land – taking into account land already owned – up to a maximum of 1,200 ha. For certain privileged entities – such as livestock farm operators, producers of seed for field and horticultural crops, or rice plantation operators – an increased possession limit of 1,800 ha applies.<sup>25</sup>

In Poland, too, upper limits on the acquisition of agricultural real estate theoretically apply, although in reality these regulations are not as strictly enforced as their Hungarian counterparts. Pursuant to Article 2a(1) of the Act on the Shaping of the Agricultural System,<sup>26</sup> the purchaser of agricultural real estate in Poland may, as a rule, only be an individual farmer, unless the Act provides otherwise. The Act further establishes that where the purchaser of agricultural real estate is an individual farmer, the area of the agricultural real estate being purchased, together with the area of agricultural real estate forming part of the purchaser's family farm, may not exceed 300 ha of agricultural land. This is how the basic Polish maximum area limit for the acquisition of agricultural real estate has been formulated. However, there are so many exceptions to this rule that, in reality, it is rather superficial in nature.

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<sup>23</sup> J.E. Szilágyi, *Hungary: Strict Agricultural Land and Holding Regulations*, in: J.E. Szilágyi (ed.), *Acquisition of Agricultural Lands. Cross-border Issues from a Central European Perspective*, Miskolc – Budapest 2022, pp. 176–177.

<sup>24</sup> *Ibid.*, p. 177.

<sup>25</sup> F. Szilva-Orosz, *The Conditions for Carrying out Agricultural Activities in the Operation of Social Farms – A Comparative Legal Analysis of the Issue of Agricultural Land Ownership and Land Use*, “Journal of Agricultural and Environmental Law” 2022, no. 33, pp. 118–129.

<sup>26</sup> Act of 11 April 2003 on the shaping of the agricultural system (Journal of Laws of 2025, item 1653).

In particular, the restrictions under Article 2a(1)–(2) of the Act on the Shaping of the Agricultural System do not apply, *inter alia*, to acquisitions by a person close to the vendor, the State Treasury, a local government body, or to the acquisition of agricultural land with an area of less than 1 ha. Furthermore, acquisition by any other entities or in any other cases may take place with the consent of the Director General of National Agriculture Support Center, expressed by way of an administrative decision. However, the 300-hectare agricultural land limit is not taken into account in the proceedings for its issuance, although one of the conditions for its issuance is, *inter alia*, that the acquisition must not result in excessive concentration of agricultural land.

Consequently, it must be concluded that in Poland there is no separate, general limit on the acquisition or ownership of agricultural real estate analogous to the solutions adopted in Hungary. In particular, the mere possession or ownership of more than 300 ha of agricultural land is not treated as a general prohibition, the breach of which would automatically require, for example, the disposal of the surplus. The 300-hectare threshold operates rather indirectly at the individual level, stipulating that an individual farmer may only be a natural person who is the owner, perpetual usufructuary, independent possessor or tenant of agricultural real estate, the total area of which does not exceed 300 ha. In practice, exceeding 300 ha of agricultural land therefore means losing the status of an individual farmer within the meaning of the Act on the Shaping of the Agricultural System, and thus a certain restriction (though not an exclusion) on the further acquisition of agricultural real estate.<sup>27</sup>

In the context of the above considerations, it should be noted that specific area limits on the acquisition of agricultural real estate also apply in Lithuania and Latvia. In Lithuania, there is a maximum limit of 500 ha on the acquisition of agricultural land. The mechanism works in such way that a person and persons associated with that person may acquire agricultural land only if the total area of agricultural land acquired from the state and from private individuals does not exceed 500 ha. There is also a stricter sub-limit: the total area of agricultural land acquired from the state may not exceed 300 ha. However, there is an important exception to this rule concerning livestock farming: the 500-hectare limit does not apply when agricultural land is acquired for the purpose of developing livestock farming, provided that the land area does not exceed the ratio of 1 livestock unit per hectare. If

<sup>27</sup> For further details on the area criterion as an element of the definition of an individual farmer: P. Blajer, *Koncepcja prawna rolnika indywidualnego w prawie polskim na tle prawno-porównawczym*, Kraków 2009, pp. 258–260.

the livestock farming basis subsequently ceases to apply or the person intends to transfer ownership of the land, the state has a mechanism to repurchase the portion exceeding 500 ha.<sup>28</sup>

In Latvia, on the other hand, a single natural or legal person may acquire up to 2,000 ha of agricultural land. Related parties may acquire a total of up to 4,000 ha. The Latvian regulation contains several exceptions. The 2,000 ha limit does not apply to certain public law entities, in particular state-owned companies acquiring land for the purpose of performing functions entrusted to them by law. Associations and foundations covered by the relevant specific provision are subject to a significantly lower limit of 5 ha.<sup>29</sup>

### 3. The specific method of determining area limits in French legislation

In France, there is no nationwide maximum area limit above which the acquisition (or possession) of agricultural real estate would be prohibited. However, the model of agricultural structure control (*contrôle des structures*) in force in that country introduces, in certain cases, a requirement to obtain prior authorisation to carry out agricultural activities (*autorisation préalable d'exploiter*). Article L331-1 of the French Rural and Maritime Fisheries Code (Code rural et de la pêche maritime – Rural Code)<sup>30</sup> provides that this regulation applies to the use of agricultural land within the framework of an agricultural holding, regardless of its legal form or mode of organization, or the title under which such use takes place. Its main purpose is to encourage the establishment of farmers and to limit the excessive enlargement of holdings and the concentration of land.

The mechanism provided for in Article L331-1 of the French Rural Code operates as follows: the establishment of a farm, as well as its enlargement or the merger of farms, is subject to authorisation in those cases where the total area intended for use exceeds the threshold specified in the regional master plan for agricultural holdings (*schéma directeur régional des exploitations agricoles* – SDREA). This threshold is therefore not national in nature – it is

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<sup>28</sup> M. Aleknavičius, A. Aleknavicius, J. Valčiukienė, *Protective restrictions on the acquisition of agricultural land: the impact on the land market on the example of Lithuania*, “Geodetski Vestnik” 2021, no. 1, pp. 82–93.

<sup>29</sup> Latvijas Republikas Likums par zemes privatizāciju lauku apvidos, <https://likumi.lv/ta/id/74241-par-zemes-privatizaciju-lauku-apvidos> [accessed on 31.05.2026].

<sup>30</sup> Code rural et de la pêche maritime, [https://www.legifrance.gouv.fr/codes/texte\\_lc/LEGITEXT000006071367/](https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071367/) [accessed on 31.05.2026].

regional and may vary depending on the type of production or the territory. The SDREA generally sets this threshold between one-third and one times the regional average area of utilised agricultural land (*surface agricole utile régionale moyenne* – SAURM) and also specifies conversion factors for certain specialised production or agricultural production carried out on non-agricultural land (Article L312-1 of the Rural Code).<sup>31</sup>

Consequently, it can be concluded that France applies area thresholds, but these do not function as a rigid limit above which the acquisition of agricultural land is not legally permissible. The thresholds provided for in the SDREA serve primarily to trigger administrative scrutiny. Should a given threshold be exceeded as a result of the acquisition, this does not mean that the acquisition is impossible. However, it does entail the obligation to obtain approval to commence an agricultural use of the land. A basis for refusing such approval may be, in particular, a situation where the planned transaction threatens the viability of an existing farm or where it leads to excessive enlargement or concentration of land (Article L331-1 of the Rural Code). The approving authority is the prefect of the region in which the properties are located, acting with the participation of other prefects where the properties are situated across several departments or regions. The procedure is initiated upon application by the prospective user of the agricultural real estate, submitted electronically, together with the necessary supporting documents. The authority conducting the proceedings checks the completeness of the documents, registers them and issues an acknowledgement of receipt. The application is then subject to public notice: it is displayed for one month in the town hall of the municipality in which the real estate is situated and published on the website of the prefecture conducting the proceedings. This notice specifies, in particular, the location, area, identity of the applicant and the owners or their representatives (Article R331-1 of the Rural Code). During this period, other candidates may submit a competing application for the same real estate. If a refusal to grant authorisation is being considered, it may be necessary

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<sup>31</sup> The SAURM standard also plays a significant role within the framework of the recently introduced control of shares and holdings in commercial companies in France. As of the adoption of the Act of 23 December 2021, the acquisition of control over a company owning or using agricultural land may be subject to a prior authorisation requirement if it results in exceeding the threshold for a significant expansion of the farm. This threshold is set by the regional prefect and ranges between 1.5 and 3 times the SAURM (Law No. 2021-1756 of Thursday 23 December 2021 on emergency measures to regulate access to agricultural land through corporate structures). In this case too, therefore, the threshold is such that, once exceeded, administrative controls are triggered to limit the concentration of agricultural land through the use of companies.

to seek the opinion of the departmental agricultural planning commission (*commission départementale d'orientation de l'agriculture* – CDOA); it issues an opinion, but the decision remains at the discretion of the regional prefect. The prefect shall, in principle, issue a decision within four months of the registration of a complete application. In justified cases, this period may be extended to six months. The prefect's decision must be explained in the light of the SDREA and the statutory grounds for refusal given. In the absence of a decision within the prescribed time limit, the authorisation is deemed to have been granted *tacitly* (Article R331-1 of the Rural Code).

It is worth noting that French legislation also provides for area-based minimum thresholds, but their function is different. They serve primarily to assess the economic viability of a farm or to determine eligibility for the farmers' social security system (in particular the AMA scheme), rather than to regulate the trading in agricultural real estate.

As a side note to the above considerations, it should be noted that in the past, French agricultural legislation used the UR system – *unité de référence*. The so-called reference unit (*unité de référence* – UR) was a former instrument for monitoring the structure of agricultural holdings. It was defined as the area necessary to ensure the profitability of a holding, taking into account the type of crops and agricultural production carried out on non-agricultural land. It was determined by public authorities, taking into account the natural regions of a given department and reference area standards. Currently, French legislation has moved away from the UR system. Since the 2014 reform, the primary reference points have been the SDREA and the SAURM.

The SMI (*surface minimum d'installation*) system also has a historical background. Historically, the SMI was the minimum area considered sufficient to support a farmer from the farm. The SMI was introduced into the structural policy in France in the 1960s and served to establish a 'range' of desirable farm sizes – between the minimum threshold for setting up a farm and the thresholds for controlling farm expansion.<sup>32</sup>

Under current regulations, the SMI has been replaced – though solely for the purposes of agricultural social security – by the so-called minimum activity subject to the scheme (*activité minimale d'assujettissement* – AMA), one of the criteria for which is the minimum area subject to the scheme (*surface*

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<sup>32</sup> A. Guéringer, *Applications différenciées d'une politique foncière agricole: une lecture comparée des SDREA*, "Économie rurale: Agricultures, alimentations, territoires" 2023, no. 1, pp. 19–33. In Polish literature see: A. Lichorowicz, *Regulacja obrotu gruntami rolnymi według ustawy z 11 kwietnia 2003 r. o kształtowaniu ustroju rolnego na tle ustawodawstwa agrarnego Europy Zachodniej*, "Przegląd Legislacyjny" 2004, no. 3, p. 17 ff.



*minimale d'assujettissement* – SMA). Consequently, the AMA standard is based on three criteria: the SMA standard, the number of hours of agricultural work, and professional income. In accordance with Article L.722-5 of the Rural Code, coverage under the social security system may result from the use of an area at least equal to the SMA or, failing that, from the performance of agricultural work for at least 1,200 hours per year.

To sum up, it can be stated that France does not apply a fixed national limit on the acquisition or ownership of agricultural real estate. Instead, it uses a system of regional area thresholds designed primarily to regulate farm structures.<sup>33</sup>

## Summary

In summary, it can be stated that area standards serve as instruments for shaping the agricultural structure in the trade in agricultural real estate. They are not uniform and vary in individual countries, taking the form of minimum area standards, maximum area standards, or flexible area thresholds triggering administrative control over the acquisition of agricultural real estate. The common denominator of these solutions, however, is the aim to protect the agricultural use of land and to counteract the phenomena considered undesirable from the perspective of agricultural policy: excessive fragmentation, excessive concentration of land, and the creation of farms incapable of conducting agricultural production effectively.

The most classic form of area standards are minimum area standards, the primary aim of which is to counteract land fragmentation. This model is particularly evident in Spain and Portugal, where the institutions of *unidad mínima de cultivo* and *unidade mínima de cultura* operate respectively. In both cases, the focus is on the minimum area of agricultural real estate, below which, as a rule, land cannot be effectively divided. These standards are not purely technical or administrative in nature. Their purpose is to safeguard the economic viability of agricultural land so that, following division, it can continue to be used for rational and profitable agricultural purposes.

The mechanism of minimum cultivation units is based on a similar scheme. First, the agricultural nature of the real estate is established; then, the minimum unit applicable to the area in question is determined; and subsequently, it is examined whether the planned division would result in plots smaller than that unit. If this is the case, the division is, as a rule,

<sup>33</sup> A. Guéringer, *Applications différenciées...*, p. 32.

inadmissible, unless there is a specific exception provided for by law. In Spain and Portugal, these regulations apply both to transactions carried out on the basis of juridical acts *inter vivos* and to divisions carried out under other procedures, including inheritance division, cadastral divisions or land consolidation proceedings. A breach of these regulations may affect the validity of the juridical act.

At the same time, it should be noted that the effectiveness of these instruments may be questioned. As indicated above, despite the formal significance of minimum cultivation units, in practice it is possible to circumvent these restrictions, particularly by changing the land use or by utilising legal structures to which the provisions on minimum units do not apply. In Portugal, an additional problem is the fragmentation of regulations and the difficulties in applying them. For this reason, minimum area standards should be regarded as an important, but insufficient on its own, instrument for counteracting land fragmentation.

Against the backdrop of Spain and Portugal, the Italian example is of particular significance. The former *minima unità colturale* was also intended to serve as a minimum cultivation unit, but in practice it was never fully implemented. Under the current legal framework, it has been replaced by the more flexible institution of the *compendio unico*. This solution does not establish a universal minimum division threshold for all agricultural real estates, but allows to create a specific group of land which enjoys protection against division for a specified period. The Italian model thus demonstrates a shift away from an abstract minimum area standard in favour of an instrument linked to a specific farm and its ability to generate income.

A separate group consists of regulations that do not refer to the economic and agronomic definition of a minimum unit, but instead set rigid minimum area thresholds. Such regulations exist, for example, in Slovakia, Poland, Bulgaria and Cyprus. Their primary purpose is to prevent fragmentation. They do not always serve directly to assess whether a given real estate can form an independent agricultural holding, but they prevent the creation of very small agricultural or forest plots. Such regulations are often of a more surveying and administrative nature than strictly agrarian, but in practice they also affect the trading in agricultural real estate, restricting the freedom of its subdivision and transfer.

Germany and Austria represent a different model. In these countries, area standards do not always function as an automatic prohibition on division, but rather as an assessment criterion within the framework of administrative control over the trading in agricultural real estate. If a transfer of ownership

would lead to an uneconomical reduction or division of land, the authority may refuse consent or make it subject to specific conditions. In this context, the area standard is not an absolute prohibition in its own right, but forms part of a broader assessment of whether a given transaction is detrimental to the agricultural structure.

The second basic category consists of maximum area standards. In European Union Member States, these are currently less common than minimum anti-fragmentation standards. Their primary aim is to counteract the excessive concentration of agricultural land in the hands of a single entity or a group of related entities. The most consistent model is found in Hungarian legislation which provides for both a limit on the acquisition and a separate limit on the possession of agricultural land. The Hungarian system thus distinguishes between the maximum area that may be acquired and the maximum area that may be held or taken into possession. This is a more far-reaching solution than systems that merely restrict specific acts leading to the acquisition of agricultural real estate.

Against this background, the Polish regulation is less consistent. The 300-hectare limit on agricultural land primarily features as an element of the definition of an individual farmer and a family farm, and as a restriction on the acquisition of agricultural real estate by an individual farmer. However, this is not a general and absolute limit on the ownership of agricultural real estate. Exceeding 300 ha does not automatically trigger an obligation to dispose of the surplus, but primarily leads to the loss of the status of an individual farmer, and thus restricts the possibility of benefiting from the basic regime for the acquisition of agricultural real estate. The significance of the Polish maximum limit is therefore more indirect and subjective than strictly objective.

Against the backdrop of the above regulations, the French model occupies a special place. France does not apply a fixed national maximum area standard above which the acquisition or possession of agricultural real estate would be prohibited. This does not, however, imply an absence of area limits. These operate within the framework of controls on farm structures, primarily as regional area thresholds defined in the SDREA. Exceeding these thresholds does not automatically block acquisition, but triggers the obligation to obtain authorisation for agricultural use of the land. The French system thus demonstrates that an area standard can serve as a procedural threshold rather than a substantive legal prohibition. It is also significant that historical French instruments, such as the UR and SMI, have lost their central importance in the current legal system. Currently, the SDREA and SAURM play

a key role in controlling structures, whilst the SMI has been replaced in the sphere of farmers' social security by the AMA/SMA system. The French model thus confirms the general trend away from uniform, rigid area-based standards in favour of more flexible regional, functional and administrative criteria.

The analysis shows that area standards may affect the trading of agricultural real estate at several levels. Firstly, they may restrict the division of agricultural real estate itself, preventing the creation of plots below a specified size. Secondly, they may restrict the acquisition of ownership or other rights to agricultural real estate above a specified threshold. Thirdly, they may affect the status of the purchaser, as in Poland, where exceeding a specified area precludes recognition of its owner as an individual farmer. Fourthly, they may serve as a criterion for administrative control of transactions or land use, as is the case in France, Germany or Austria.

Area-based systems cannot therefore be reduced solely to a simple issue relating to the minimum or maximum area subject to division or acquisition, respectively. Their significance depends primarily on whether a given standard functions as an absolute prohibition on division or acquisition, a ground for the invalidity of a transaction, a condition for administrative approval, an element of the purchaser's legal status, or merely a criterion for assessing the impact of a transaction on the agrarian structure. Only by taking these differences into account can one correctly assess the actual impact of area-based rules on the trading of agricultural real estate.

Ultimately, area standard systems should be viewed as instruments balancing the freedom of trade in agricultural real estate with the need to protect the agricultural structure. Minimum area standards primarily prevent excessive fragmentation of land, maximum area standards counteract its excessive concentration, whilst models based on administrative thresholds allow public authorities to respond flexibly to the specific effects of a given transaction. Despite their structural differences, all these solutions essentially aim to achieve the same objective: to preserve a structure of ownership and use of agricultural land that enables rational, stable and economically viable agricultural activity. It should be emphasised, however, that in the current legal and economic climate, area standards are no longer a self-sufficient tool. Their usefulness depends on their integration with more flexible economic, regional and functional criteria. Their use should therefore not be questioned, but rather viewed as part of a broader policy to protect the agricultural structure rather than as rigid, abstract area limits.

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