

AGRICULTURAL LAND PROTECTION – THE CASE OF SLOVAKIA

Jarmila Lazíková*, Anna Bandlerová, Ivan Takáč, Ľubica Rumanovská, Oľga Roháčiková,
Zuzana Lazíková

Slovak University of Agriculture, Tr. A .Hlinku 2, Nitra, 949 76, Slovakia

Abstract

The agricultural land is a natural heritage of each country. The agricultural land protection is a complex role where the interests of agriculture, industry, housing, transport and environment should be taken into account to ensure the harmony in these relations. The Slovak law maker uses various legal measures to protect the agricultural land, such as obligation of land owner to protect the land against the degradation and devastation, fees for agricultural land withdrawal for the non-agricultural purposes, restrictions in the land transactions when land is purchased or leased. We assume that the adoption of a legal measure should be accompanied by the complex analysis of its impact on the land protection to ensure that the new legal measure fulfils its intended role. Moreover, we assume that the innovations should be the central focused point of the land protection.

Keywords: agricultural land, land protection, land transactions, land grabbing, land consolidation

1. INTRODUCTION

Agricultural land is a non-renewable resource and one of the basic environmental elements which plays an important role at least from two points of view. Firstly, there is a production function of land to ensure food production, food security and the right for food. Secondly, there are environmental functions, landscape element with the regulation and detoxification potential (Kobza, 2010). To maintain the agricultural land for the future generations, the land should be taken the great care as the basic element of the living conditions on the Earth together with the water resources on the national and international level as well. Soil protection should be declared to be of general public interest and integrated in environmental and long-term development policies (Council of Europe, 1992), because land degradation is considered as a major global environmental issue of this century (Eswaran et al., 2001). There are two complex systems involved in land degradation: the natural ecosystem and the human social system (Barrow, 1994). The global changes, mainly the climate changes, support the land loss and land deterioration. Changes in climate are recognized as one of the major factors responsible for land degradation affecting sustained development (Kumar, Das, 2014). The generally high temperatures and low precipitation lead to poor organic matter production; low organic matter leads to poor aggregation and low aggregate stability leading to a high potential for wind and water erosion (Williams, Balling, 1996) which are the most widespread form of land degradation (Andrien, 1994). It is also the case of Slovakia; mainly the south of Slovakia where the most fertile land is situated. The climate changes cause that the rainfall is declining and the agricultural production without irrigation systems is being even more ineffective. However, not only natural changes support the land loss and deterioration. The human factors such as industry, transport, infrastructure and housing construction cause even more agricultural land loss. Unfortunately, in Slovakia, they are situated on the most fertile land of the country (Ilavská, 2016; Némethová, Feszterová, 2018). Moreover, the developers are able to buy agricultural land for a higher price than the farmers and they use this land mainly for the non-agricultural purposes. In addition, the wrong practises of some farmers cause water or wind erosion which is the reason of large damage on the land (Hanes, 2014). The rational cultivation of land and the land protection is complicated by the large land fragmentation in Slovakia. According to Van Dijk (2004) there are more types of land fragmentation: fragmentation of land ownership (refers to the number of landowners who use a given piece of land), land use (refers to a high density of land users and the consequent small farm size), internal fragmentation (considers parcel size, parcel shape, and parcel distance as well), separation of ownership and a situation where there is a discrepancy between ownership and use. For Slovakia, the first, third and fourth type of land

fragmentation is common place. Although Slovakia is a typical country with a high level of land ownership fragmentation, but there is a low level of land use fragmentation due to the impact of land reforms after 1990, which are characterised by a dominant position of large corporate farms and agricultural cooperatives (Lazíková et al., 2017).

2. MATERIALS AND METHODS

2.1. Materials

For the purpose of this paper, literary sources available on this subject, the normative legal acts, international legal and political documents and explanatory memoranda were used. The paper used also the statistical data related to the acreage of agricultural land, land withdrawal and land use for non-agricultural purposes. The data are available in the Statistical Yearbooks on Land Fund published by the Geodesy, Cartography and Cadastre Authority of Slovak Republic and in the Reports on the environment in the Slovak Republic prepared by Ministry of Environment of the SR.

2.2. Methods

In the paper, there were used two groups of methods. Firstly, basic methods of legal science such as legal analysis and comparison were used. Secondly, the data on the land fund were analysed by the descriptive statistical methods and the results are presented in the form of figures.

3. RESULTS AND DISCUSSION

3.1. Agricultural land protection by planning instruments

Agricultural land protection is managed by the general and special measures. The general measures include land planning instruments that are regulated by the Act no. 50/1976 Coll. on land planning and building order (hereinafter as Building Code). The land use planning is defined as the permanent and complex solution of the spatial arrangement and functional use of land. It includes the basic principles, the objective and the temporal coordination of the activities influencing environment, ecological stability, cultural and historical values of a country, land use development and landscape creation with harmony of the principles of sustainability (§ 1 of the Building Code).

The land use planning instruments are prepared on all level of governments, such as state governments, regional and local self-governments as well. The hierarchy of the land planning instruments is as follows: the concept of territorial development of Slovakia for the whole territory of the country, the territorial plans for the regions (NUTS III) of Slovakia, the territorial plans of the municipalities (LAU 2) and the territorial plans of zones for a special areas of the municipalities if necessary (e.g. land plots for the public goods or new housing zones).

The concept of territorial development of Slovakia is processed for the whole territory of the Slovak Republic. It includes mainly the settlement structure, the nodal points of residential and industrial agglomerations in national and international contexts, development of major urbanization axes in Slovakia, and the principles of territorial development with the aim of creating equal living conditions throughout the country and crating territorial conditions for improving the environment, ensuring ecological stability, preserving cultural and historical heritage and for sustainable development (§ 9 of the Building Code).

The territorial plan of a region involves the settlement structure, the spatial arrangement and land use in terms of its sustainability development and development of urbanisation, industry, agriculture, forestry, water management, environmentalism and tourisms, the organisation of public transport and technical infrastructure, the principles of environmental protection, territorial system of ecological stability, the creation of landscapes and the protection of cultural monuments, the principles of spatial requirements for the protection and use of natural resources, public goods and natural reservations (§ 10 of the Building Code).

The territorial plan of the municipality includes the principles of the spatial arrangement and functional use of the territory of the municipality, permissible, restricted and prohibited use of the areas, the principles of environmental protection, the territorial system of ecological stability and landscape creation, including the green areas, the principles of the protection and use of natural resources, cultural and historical values, the border between built up areas of the municipality and other areas of the municipality, the principles of public transport, technical and social infrastructure and areas for public goods, for natural reservations and for decontamination (§ 11 of the Building Code).

The special instruments of agricultural land protection are regulated by the Act no. 220/2004 Coll. on the agricultural land protection. For the agricultural land protection, there are two special instruments. The first one includes the entitlement of the state bodies to approve the transformation of the agricultural land into the forest land. The second one consists in the agricultural land protection against the non-agricultural use. The agricultural land may be used for building or other non-agricultural purposes only in an inevitable case and in a legitimate extent according to the decision of the state bodies. The state bodies take into account the protection of the agricultural land of the best quality. The applicant is obliged to prefer the building location on the land of the lower quality if possible.

The agricultural land may be withdrawn permanent or temporary. There is a duty to pay the fee for permanent and temporal withdrawal stipulated by the government Decree No. 58/2013 Coll. on the fee for land withdrawal and unlawful withdrawal of agricultural land. The agricultural land is divided into nine categories of the quality. The fee for the first category as the land of the highest quality is 20 EUR per m² if permanent withdrawal and 0, 20 euro per m² if temporal withdrawal. The fee for the ninth category as the land of the worst quality is 0,50 euro per m² if permanent withdrawal and 0, 005 euro per m² if temporal withdrawal. The state bodies are obliged to issue a positive decision on the land withdrawal when the principles of the agricultural land protection in the case of non-agricultural use are fulfilled. According to this law, if there is no other alternative for building location, the agricultural land of the best quality may be withdrawn. There is no absolute prohibition of land withdrawal when relating the land of the best quality. Moreover, the fees are too low to argue an applicant out of the land withdrawal. If a natural person withdraws an agricultural land for non-agricultural purposes without permission of the state bodies, he/she committed the civil tort and the sanction is a fine up to 995 EUR. If a legal entity or a businessman withdraws an agricultural land for non-agricultural purposes without permission of the state bodies, the fine varies from 1660 EUR to 166 000 EUR per an unlawful withdrawal hectare of agricultural land. Figure 1 describes decline of agricultural land during the last six years. By this figure the agricultural land loss is decreasing year to year; however, if we take into account the land loss without forestation (blue line), the land loss has been increased in the last year. In 2018, Slovakia lost on average 12 hectares of agricultural land per day; of it 4, 5 hectares of land were forested and 7,5 hectares of land were lost due to the building and mining.

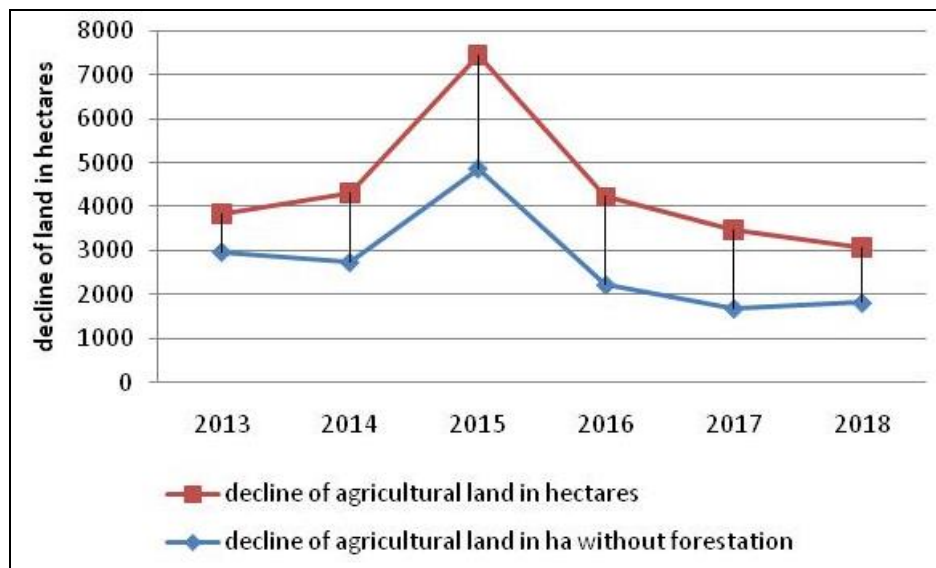


Fig. 1. The agricultural land loss in Slovakia in the period 2013 – 2018

Source: own calculation by the Statistical Yearbook on Land Fund, 2007 – 2019.

In 2018 (table 2), the most of withdrawn agricultural land is used for forestation (around 41 %); the building occupies around 33% of withdrawn agricultural land; the share of mining is negligible (1, 3%) and the rest of agricultural land loss is caused by the changes in the land plots evidences (25 %). The bodies administrate the land cadastre are still upgrading the land cadastre evidences after the economic transformation. The chaos in the land evidences is caused by the negligent land evidence during socialisms, the land reforms between the world wars and the lost land books during the history. The bodies administrated the land cadastre try to synchronise the real state with the land evidence.

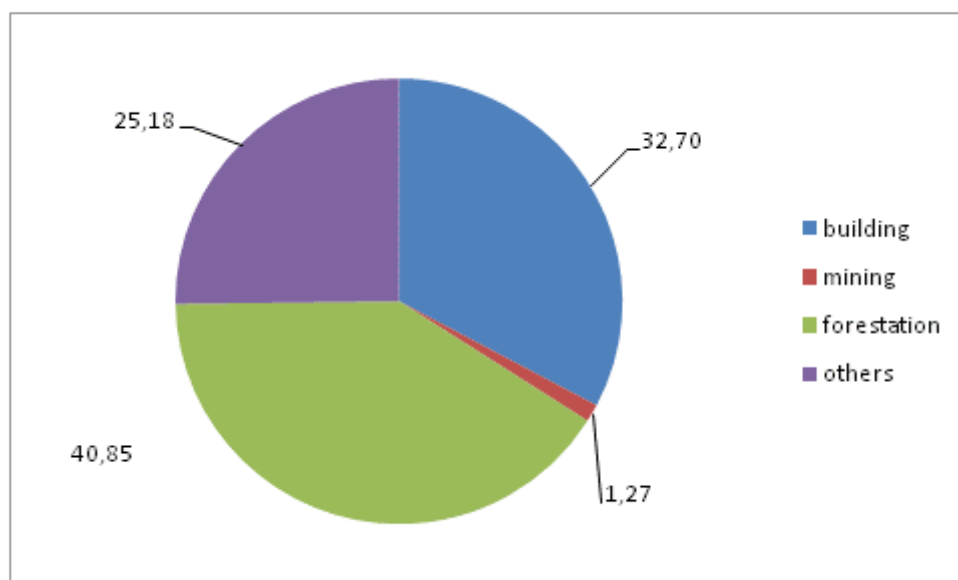


Fig. 2. Structure of land use for non-agricultural purposes in 2018

Source: own calculation by the Statistical Yearbook on Land Fund, 2007 – 2019.

The agricultural land loss is different among the regions (NUTS III). The figure 3 describes the agricultural land loss in the particular regions during the last three years.

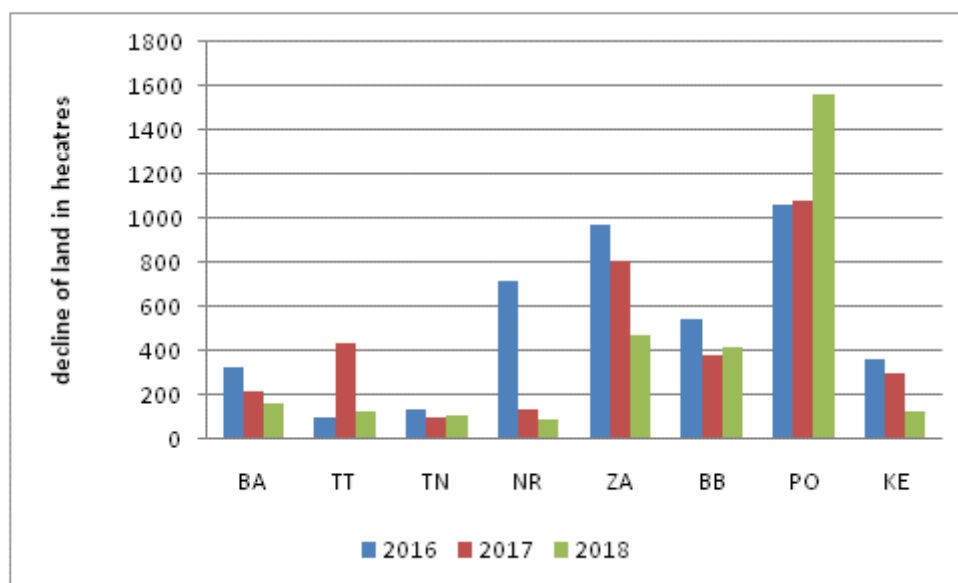


Fig. 3. Agricultural land losses by the regions (NUTS III)

Source: own calculation by the Statistical Yearbook on Land Fund, 2007 – 2019.

*BA – the Bratislava region; TT – the Trnava region, TN – the Trenčín region, NR – the Nitra region, ZA – the Žilina region, BB – the Banská Bystrica region, PO – the Prešov region, and KE – the Košice region

In general, the agricultural land loss is decreasing during the observed period in all regions; there is only one exemption, the Prešov region. The most of withdrawn agricultural land is forested because the land is usually of the low quality and it is not effective to use it in agriculture. It is confirmed also by figure 4.

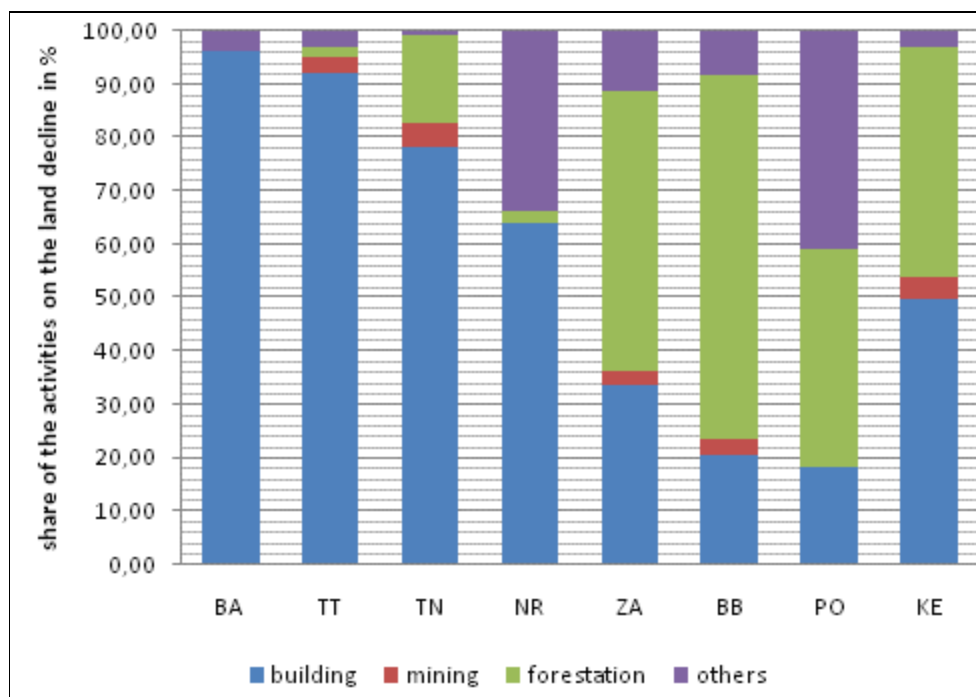


Fig. 4. Structure of land to use for non-agricultural purposes in the particular regions in 2018

Source: own calculation by the Statistical Yearbook on Land Fund, 2007 – 2019.

*BA – the Bratislava region; TT – the Trnava region, TN – the Trenčín region, NR – the Nitra region, ZA – the Žilina region, BB – the Banská Bystrica region, PO – the Prešov region, and KE – the Košice region

The withdrawn agricultural land is usually used for building in the parts of Slovakia where the land of the best quality is situated (the Bratislava region, the Trnava region, the Nitra region and the Košice region). The other regions use the withdrawn agricultural land mainly for forestation. The fees for land withdrawal have been paid in Slovakia from 1976. In 2004, the new Act no. 220/2004 Coll. on the agricultural land protection was adopted which abolished the fees. Four years later, the fees were introduced again but only in the case where the land of the best quality was withdrawn. It means the land which was divided into nine classes was considered as the best if the withdrawn land belonged to the first, second, third or fourth class. In 2013, the new regulation was adopted when fees for land withdrawal were restored in all classes. However, the changes in the fee regulations were not accompanied by any analysis of the impact on the land withdrawal. The biggest land withdrawal was recorded mainly shortly before the time when the new regulations with the stronger fee policy should enter into force. The experiments with the fee policy brought up opposed effects than the fee policy follows (Lazíková, 2015). The available data on the land withdrawal documented that this change in legislation was not positive and it did not provide a sufficient protection of the agricultural land of the top quality. Our results corresponds to the conclusions of other authors, e. g. higher loss of agricultural land occurred at a time when the fees as an economic tool for the protection of agricultural land were not used (Palšová et al., 2017); the new law does not prohibit agricultural land loss but it only restricts the building location on the land of the worse quality if possible (Ilavská, Bezák, 2015).

In 2013, the Act on land protection was amended and introduced the special protection of the agricultural land of the best quality in the whole territory of Slovakia. The agricultural land was categorized into nine classes and the first class was the land of the best quality. In each particular cadastre district (one municipality has at least one or more cadastre districts) has been protected the land with the best quality which is situated in this area. If the land of the best quality in a particular cadastre district is smaller than 30% of acreage of agricultural land in that cadastre district, the area of the agricultural land with the second best quality is added to the land of the best quality. By this way,

the record of the land with the best quality has been created in all cadastre districts of Slovakia. This special instrument protects 37 % of all agricultural land in Slovakia (Ilavská, 2016). However, the amendment of the Act on land protection does not exclude the withdrawal of agricultural land of the best quality in the particular cadastre districts absolutely. This land is only protected from the withdrawal when the land of worse quality exists in the particular cadastre districts. We assume that the central policy of the land protection is ineffective, mainly, if the policy measures are not adopted after the precise analysis of their impact. Moreover, the land protection should take into account the possibility to use innovation including the new technologies, new financial measures and new partnership among public, private and non-governmental sectors.

3.2. The instruments against degradation and devastation of agricultural land

According to the first subchapter, the acreage of the agricultural land is still decreasing on the expense of building, transport, technical and social infrastructure and forestation. However, the rest of agricultural land suffers by degradation and devastation. According to the report on the environment in the Slovak Republic 2017, the risk substances such as heavy metals (As, Cd, Co, Cr, Cu, Hg, Ni, Pb, Zn) were recorded under the limit levels; however the acreage of agricultural land with the acid soils is increasing on 6,1% during the period 2012 - 2017. In 2017, water erosion threatened 38, 6 % of agricultural land and wind erosion threatened 6,7 % of agricultural land in Slovakia. Nowadays, there are salinized 5000 ha of agricultural land (0,2 % of agricultural land in Slovakia). In addition, the decline of soil physical characteristics and soil concretion were recorded mainly in the regions with the intensive agricultural production (Ministry of Environment of the SR, 2017). There were no important changes in the data presented above during the last five years.

The main legal instrument to counteract degradation and devastation of agricultural land is the Act no. 220/2004 Col. on the agricultural land protection (hereinafter as Act on land protection). Land owners or land users are obliged to realise the agro-technical protective measures for the maintenance of the qualitative characteristics and the functions of agricultural land and for its protection against degradation and damage. The monitoring of the land degradation and the proposals of the suitable measures, there is a role of the Soil Science and Conservation Research Institute (hereinafter as Soil Service). Land owners or land users are obliged to realise the measure proposed by the Soil Service (§ 4 of the Act on the land protection) such as:

- the measure against erosion e.g. planting agricultural and protecting greenery, contouring agrotechnics, crop rotation with the protective effects or other measure proposed by the Soil Service (§ 5 of the Act on the land protection);
- the measures against soil compaction that is caused by wrong crop rotations, wrong fertilisation, insufficient calcification and wrong use of agricultural machinery, the suitable measures are e.g. right choice of crops, crop rotation and suitable agricultural technologies are proposed by the Soil Services in a particular case;
- maintenance of the optimal characteristics and the functions of agricultural land (§ 7 of the Act on the land protection) and the land protection against the risk substances (§ 8 of the Act on the land protection).

If land owners or land users break their obligation, they are obliged to adopt the measures proposed by the Soil Service. If they break these obligations and do not adopt any measure proposed by the Soil Service, the state bodies are entitled to impose a fine. The state bodies responsible for the land protection are Ministry of Agriculture and Rural Development of the SR and the land offices in the counties (LAU 1). The Soil Service is a scientific body entitled to prepare suitable measures for land protection; the land offices as the state bodies in the counties are entitled to impose the obligation and the fines to the land users or land owners when breaking their obligations stipulated by the law. The maximum fine is 995 EUR if the law breaker is a natural person. The maximum level of fine for the legal entities and natural persons doing business is 166 000 EUR per one hectare of agricultural land. The Act on land protection provides the basic framework for the agricultural land protection; however, it can be reproached for lacking a certain level of conceptual approach and not taking into account

historic conditionality related to the establishment of the responsibilities of owners, lessees or manager (Palšová, 2014). The land use and the land protection in Slovakia have quite good level; in spite of this fact, it is important at least to maintain the actual state for the future generation (Vilček, 2011). Some businesses are increasingly becoming positive agents of change and are often the source of innovation, helping to create new ecosystem friendly markets and developing more sustainable technologies and business practices (World Business Council for Sustainable Development, 2010). However, agricultural enterprises implement predominantly product-technical innovations, much less they use soil protecting innovations, it does not support the reproduction of soil fertility (Kucher, Kucher, 2017). Therefore the land protection should be accompanied not only by the new technologies, but also by the new financial measures and new partnership among public, private and non-governmental sectors.

3.3. The specific regulations concerning agricultural property transaction

Before the accession of the SR into the EU, the provision § 19 of the Foreign Exchange Act no. 202/1995 Coll. named the exhaustively specified possibilities of acquiring the immovable assets by non-residents of the Slovak Republic. On 1st May 2004, the Slovak Republic accessed into the European Union. Therefore the Foreign Exchange Law had to be adjusted. The Slovak Republic requested transition period of 10 years with aim to maintain the existing restrictions relating to the acquisition of the property right to agricultural and forest land in the SR by non-residents. The Treaty of Accession accepted only the request with the duration of 7 years; however, if it is subsequently proved that, upon expiry of the transition period, there is a threat of serious disturbances on the agricultural land market of Slovakia, the Commission shall decide upon the extension of the transitional period by a maximum of three years. In 2011, the Slovak Republic made a request for its extension within the meaning of the accession agreement. The Commission issued the 2011/241/EU Decision of 14 April 2011, which extended the transition period concerning the acquisition of agricultural land in Slovakia. Under the Article 1 of the Decision, the transitional period concerning the acquisition of agricultural land in Slovakia referred to in the Chapter 3 of the Annex XIV to the 2003 Act on Accession is being extended until 30th April 2014. In 2014, the Slovak law maker responded to the situation by an adequate amendment of the provision § 19 of the Foreign Exchange Law, which allowed the non-residents to acquire the property right to agricultural land under the same conditions as residents. However, since 1st June 2014, the Law No. 140/2014 Coll. on land acquisition (hereinafter as Act on land acquisition) entered into effect which included restrictions for agricultural land acquisition regardless citizens or foreigners.

3.3.1. Land ownership transactions

A purchase contract of agricultural land is the most common way how to acquire land ownership. Before the adoption of the Act on land acquisition, the individuals and legal entities had been able to conclude the contracts (e.g. purchase contract, donation contract and exchange contract) and to register the ownership transfer in the land cadastre. When the Act on land acquisition entered into effect, the process of concluding contracts related to the land acquisition became more difficult due to the introduction of the specific proceeding. There were only some exemptions when the new proceeding had not to be used. The specific proceeding included the following steps: a land owner who wanted to transfer his/her land was obliged to publish his/her land offer in the particular register on the website of the Ministry of Agriculture and Rural Development of the SR for 15 days at least. At the same time, the land owner was obliged to publish the offer on the bulletin board of a municipality, where agricultural land was located. The potential land acquirer was obliged to record the interest in the acquisition of the land ownership in the register and at the postal address of the land owner within the period specified in the offer. The landowners was entitled to choose from the potential buyers but only according to the order of persons authorised to become new land owners laid down by law. The ownership of agricultural land could be required only by the person or entity who had a permanent residence or registered office in the Slovak Republic for at least 10 years and carried out agricultural production as a business for at least three years before the date of the conclusion of the contract in the municipality where the land was located, or secondly, in the neighbourhoods or thirdly, regardless of the place of business and at least, a person with the permanent residence or registered office in the

Slovak Republic for at least 10 years regardless the business activity in agriculture. The fulfilment of the requirements of the transfer of the property right to agricultural land was verified by the District Office. The certificate became an annex to the purchase contract which was necessary for the evidence in the land cadastre (e.g. Lazíková, Bandlerová, 2015).

There was no doubt that the Act on land acquisition affected the disposal right of the land owners. The law maker defended this Act by the objective, which should be strengthening the legal instruments of the protection of agricultural land focusing not only on the protection against its degradation and the deterioration of its biological and physical characteristics but also on creating a legislative framework for the protection of land by defining the criteria, mainly those of professional nature, which will be required to be fulfilled by the acquirers of their ownership. In spite of this valuable objective, the European Commission took a decision on demanding a clarification on the laws regarding the acquisition of agricultural lands passed in Bulgaria, Hungary, Lithuania and Slovakia. The Commission noted that all countries have the right to determine their own laws, but they also need to comply with the union's anti-discrimination policies. Therefore the Slovak law maker was preparing the amendment of the Act on land acquisition when the Slovak Constitutional Court decided that some rules of the Act on land acquisition are contrary to the Slovak Constitution. These rules related to the publication of the offers of land in the website of the Ministry and on the Board of the municipalities and the order of new potential land purchasers were abolished by this judgement. Nowadays, the Act on land acquisition defines only the notion of agricultural land acquisition and without this history, there is impossible to understand what its meaning is. The land transactions are provided like before this Act adoption; it means the concluding contracts are recorded in the land cadastre. The Act on the land acquisition is no more relevant in the present diction. Of course, the transfer process of land was complicated; however, the published land offers were a valuable source of information on the land prices (Lazíková et al., 2017). Nowadays, there is missing any tool to statistical monitoring of the land prices and acreage of the transferred land. It was a useful source of information to analyse the developments on the Slovak land market as currently there is no publically available data source of land market prices (Drábik - Rajčániová, 2014).

3.3.2. Land lease transactions

In Slovakia, the majority of agricultural land is owned by the private owners; however, most of them lease their land to the farmers or the agricultural corporations (cooperatives or business companies). There are not statistical databases on the land lease but we estimate that more than 90% of agricultural land is leased. There are more reasons for it. Firstly, after the socialism the land owners or their heirs received back their land in the restitution processes; however only few of them wanted to deal with the land. They leased the land to large agricultural corporations that had already cultivated their land during socialisms. After the transformation of economy they continued with the land use on the base of lease contracts. It was the easiest way what to do with the returned land for owner which lost their relation to the land and skills to cultivate the land. Secondly, it was very difficult to start the business in agriculture when the agriculture was collapsed in the 90s years; to believe that the land has its value after 40 years when the land ownership meant more problems than advantages; moreover the people were employed in other economic sector and they did not to become farmers. Thirdly, the large land fragmentation has caused that the owners were not able to take their land due to very small acreages of land plots without any access to them; moreover, nobody know to find his/her small land plots on the large land areas occupied by the agricultural corporations. This problem persists up to now, when a land owner interesting in their land becomes to use only substitute land plots on the base of sublease contracts because it is not possible to receive his/her very small land plots dispersed in one or more municipalities without access. This situation should be solved only by the land consolidation. Therefore the land lease is still very important legal measure for agricultural land cultivation.

The land lease is governed by the civil code (*lex generalis*) and Act no. 504/2003 Coll. on lease of agricultural land plots, agricultural enterprise and forest plots (*lex specialis*; hereinafter only Act on land lease). The obligation of the lease payment must be explicitly stipulated in the land lease contract. The lease is paid annually for the previous year up to October 1st, unless the parties agree otherwise. The minimum amount of land lease payment is 1% of the land value. The land value is stipulated by

the governmental decree No. 38/2005 Coll., which determines the value of the land based on the quality. In practice, the lease payment is usually higher than the minimum stipulated by the Act on agricultural lease. If the subject matter is a land plot registered in the Land Cadastre as built-up area for agricultural purposes (e.g. land plot under the agricultural buildings or agricultural yard), the amount of the lease payment is at least double usual lease payment in the particular municipality. The usual lease payment is defined by the law as the land lease payment per one hectare of agricultural land stipulated by the particular district office as the average land lease payment calculated by the data from the register of the land lease payments.

The lease contract can be formed for a definite or an indefinite period of time. The lease duration is a matter of an agreement of contracting parties, however, the Act on land lease determines the minimum 5-years duration. By this provision, the lawmakers attempt to stabilise the lease relationships regarding the agricultural land and motivate a lessee to invest in the agricultural land. If there is a definite period of time, the maximum duration of this contract is 15 years. This provision changes relatively often. On the one hand, 15 years is long enough for a lessee to obtain the returns of his investment in the agricultural land at least partially. On the other hand, it is not extensively long to deprive the lessor of his relationship to the land. In spite of this fact, the law maker had prolonged the maximum period to 25 years. According to the lawmaker, this amendment should enforce the stability of the business environment in agriculture and temporally eliminate the speculative purchases of agricultural land. After five years, the maximum period of land lease was amended again and it is 15 years. The main reason is the protection of the property rights including the rights to cultivate own land plots; the period of 25 years is a period of a generation and the circumstances relevant at the time of concluding contract could be changed during this period, therefore the mentioned time period of 25 years is not adequate. However, we do not believe that it is the main problem of the land lease in Slovakia because the most of land lease contracts are concluded for a period of 10 years.

A lease contract can be terminated with effect from November 1st, with five-year advance notice if the lease contract was concluded for indefinite period. Up to May 2018, there was one-year advance notice if the contracting parties did not agree otherwise. Nowadays, the agreement on the period of notice is not possible. It is a very strong restriction for the land owners to receive his/her land after five years period of time after giving notice.

Transfer of land ownership is a specific reason for dismissal. In this case, only a lessee has the right to dismiss the lease contract. Transfer of agricultural enterprise is a specific reason for dismissal for land owner.

The lessee is entitled to sublease the land when the contract does not prohibit sublease expressly.

In Slovakia, the ex lege legislation does not guarantee the option to purchase for the lessee, however there are no restrictions for contracting parties to agree on it in the lease contract. Thus, the legislation provides the lessee with the so-called prior right for the new lease contract. Provision of the § 13 par. 2 of the Act on land lease regulates the prior right of the lessee on land leased from natural and legal persons. Prior right of the lessee on land of the Slovak Land Fund is regulated individually in provisions of the § 13 par. 4 to 10 of the Act on agricultural lease.

In accordance with the § 13 par. 2 of the Act on agricultural lease, the lessee has the right for prior conclusion of the new lease contract on land for the usual lease payment, when he/she meets the contractual obligations duly and properly. In its second clause, the law determines cases when the lessee has no prior right even in case he duly meets the lease contract obligations:

- when the lessor runs his own business in agriculture upon the termination of lease due to the term of lease expiration or due to the period of notice expiration;
- when the new lessee is a person close to the lessor;
- when the new lessee is the legal person, of which the lessor is a member or an associate member;
- when the land determined in accordance with special legislation for other than agricultural purposes is concerned;

- when the ownership to the leased land was changed.

The amendment of Act on land lease in May 2018 brought also the sanction when the right for prior conclusion of the new lease is broken. If a lessor breaches the rule of a prior right by enclosing a new land lease contract with a new lessee, the new land lease contract is void ex lege. Moreover, the legal rule regulates also the period to apply the prior rights and the reason to refuse concluding of a new land lease contract with the present lessee. If the lessee, the earliest one year and the latest two months before the lease termination, delivers to the lessor, in a demonstrable manner, the proposal for a new lease and if, within two months from the date of proposal delivery, the lessor does not refuse this proposal for one of the reasons mentioned in paragraph 2 or because the proposed lease is not the usual amount, a lease relationship will arise under the terms of the contract proposal (more details e.g. Bandlerová, Lazíková, 2018). The law maker thus intervenes in the contractual freedom of the land owner. We assume that a disproportional burden is put on the owner because there is missing a general interest that could be preferred to an individual interest of the land owner. Moreover, the legislation guarantees the renewal of the lease with original lessee for the lease payment commonly paid. There is no possibility for the lessor to lease the land for third party willing to pay a higher lease payment which would finally have an impact on average lease payment in relevant locality. Thus the law maker has significantly intervened into the free price setting and into the agricultural land market development as well (Bandlerová, Lazíková, 2016).

3.3.3. Land grabbing and land consolidation

Land grabbing is leading to the further erosion of Europe's model of family farming based on a sustainable and multifunctional form of agriculture and blocking the entry into agriculture of young and aspiring farmers. This has real implications for European food security, employment, welfare, and biodiversity as with the demise and marginalisation of small-scale farming in Europe; the multiple benefits of this type of farming system and way of life are also eroded (European parliament, 2015). The agricultural land grabbing is taking place in Slovakia as well, as measured by the degree of foreign land ownership, the concentration of the land ownership in few hands, and the irregularities that often accompany numerous agricultural land transactions (Ciaian et al., 2017). Land grabbing for non-agricultural use has intensified in recent years, which can endanger the food security in Slovakia (Křížová, Buday, 2015). Long-term problem of the Slovak Republic is grabbing of agricultural land for the purpose of mainly large development such as industrial and residential projects. Factors that contributed to the grabbing of land are primarily due to the need for new residential, industrial and commercial sites, as well as transport infrastructure (Mandler et al., 2016). However, the problem of land grabbing is not linked only with the withdrawal of land for the non-agricultural purses. According to the final mission report of the European Parliament delegation in Slovakia the land grabbing is the serious problem in Slovakia due to a complicated system of land ownership and leasing arrangements which sets Slovakia from all other Member States. Over the past years, the situation of small farmers in Slovakia has deteriorated to the point that 5% of beneficiaries of direct payments receive 75% of the total amount of direct payments distributed in Slovakia (European parliament, 2018).

The main problem on the land market in Slovakia is the difficulty or impossibility of land owners to receive their land to providing their own agricultural business or to lease the land to the third party without restrictions. The young farmers are not able to receive the land if they want to start their own business. If they have own land, there is difficult to take it like above mentioned. If they want to buy the land, there is a problem due to land fragmentation when the purchase contract should be conclude with many small owners and the transaction costs are very high. Moreover, if there is a land plot of an unknown owner (there is no record in the land cadastre who is an owner), the land could not be purchased. If they buy the land after all these complications they find out that the land is cultivated by the large agricultural corporations which are not willing to give up their leased land. The amendment of the right for prior concluding contract helps to the young farmers by the diction that the prior right is not given when the ownership to the leased land was changed. However, they need to wait for the termination of definite period of time agreed in the land lease contract; if the period of time is indefinite, there is a new five-year advance notice. In addition, a land owner becomes only the substitute lands if he/she wants to deal with land because of land fragmentation. At present, it is quite

common that one hectare of land has more than ten owners. Moreover, a land owner does not own usually one or several plots of land with a size reasonable for farming but he/she is a co-owner of a number of small-scale plots scattered in the vicinity or more distant surroundings. If one of the co-owners is an unknown owner, it is impossible to dispose such land (sell, donate, exchange), it is possible to dispose only with the ownership share (Lazíková, Lazíková, 2018).

According to the Act no. 330/1991 Coll. on land arrangements, settlement of land ownership rights, district land offices, the Land Fund and land associations as amended (hereinafter as Land Consolidation Act) land consolidation includes not only the identification and arrangement of ownership and use conditions, other material rights in the area of land consolidation and the new division of land in the form of consolidation or fragmentation or other modification but also technical, biological, ecological, economic and legal measures related to the new arrangement of land. Land consolidation addresses the development of the countryside and increases rural attractiveness for the inhabitants themselves. The Ministry of Agriculture and Rural Development of the SR is starting the land consolidation in 168 cadastres in various municipalities over the Slovakia in 2019. However, there are some objections or at least questions. There is no analysis and no statement how were the particular cadastres chosen. There is only a register of 168 cadastres on the website of the ministry. In Slovakia, there are 3559 cadastres and the land fragmentation is serious problem in each of them. The finished land consolidation projects are related only 6 % of the cadastres in Slovakia. So, we have still more than 3000 cadastres which need the land consolidation. Secondly, the Ministry wants to solve only the land ownership. Land consolidation includes not only land relations but also the environmental, social, ecological aspects of the country as it results from the legal definitions mentioned above. The website of the ministry informs that the results of the land consolidation is a new arrangement of the ownership rights to the land and their evidence in the cadastre offices, new land lease relations as well as the technical and ecological measures of the public goods. We afraid of that the land consolidation will be focused only on the land relations and the technical, ecological, economic and biological functions of the land consolidation will be considered only as marginal. However, just these functions of the land consolidation enable to solve the land protection against the natural disasters, such as floods, drought or erosion. The land consolidations are not only about the land relations in spite of the fact that they are very important; however the concentration of the land plots does not solve the existing problems of land devastation and degradation. Only the land consolidation in the meaning of the above mentioned legal definition is a legal measure which enables to solve most of the problems related to the agricultural land and soils.

4. CONCLUSIONS

The agricultural land is a natural heritage of each country. The agricultural land protection is a complex role where the interests of agriculture, industry, housing, transport and environment should be taken into account to ensure the harmony in these relations. The often changes in the Slovak legal measures related to the agricultural land protection prove that it is a very difficult role to find that harmony. The legislation should be prepared on the base of complex analysis of economic, social, urban, legal and environmental aspects what is still missing when the new legislation is adopted in Slovakia. The fee policy for land withdrawal as well as the abolished Act on land acquisition proved that a relatively strong protection for local farmers brought small gains for them, because the majority of land is controlled by large agricultural companies. The new regulation protected their status quo situation rather than aiming to improve land access to small farmers (Ciaian et al., 2017). We assume that the central policy of the land protection needs the precise analysis of its impact before the adoption of a new legislation. Moreover, the land protection should be accompanied by the innovation including the new technologies, new financial measures and new partnership among public, private and non-governmental sectors.

ACKNOWLEDGMENTS

This work was supported by the project Jean Monnet Module EU Intellectual Property no. 599683-EPP-1-2018-1-SK-EPPJMO-MODULE and Grant Agency FESRD projects no. 7/2017 The impact of CAP supportive mechanism on the market with agricultural land in Slovakia.

REFERENCES

1. Andrien, M 1994, “*Social communication in nutrition: a methodology for intervention*”, FAO, viewed 5 April 2019 < <http://www.fao.org/3/T0807e/T0807e00.htm> >.
2. Bandlerová, A & Lazíková, J 2016, “Land lease contract and prior right of lessee to concluding the new land lease contract - case of Slovakia”, *Tribune Juridical*, vol. 6, no. 2, pp. 304-320.
3. Bandlerová, A & Lazíková, J 2018, “Agricultural land lease in Slovakia”, *XV. World Congress of Agricultural Law*, Univerzita A. Mickiewicza, Poznan, pp. 229 – 236.
4. Barrow, C J 1994, “*Land degradation. Development and breakdown of terrestrial environments*”, Cambridge University Press, New York.
5. Ciaian, P, Drábik, D, Falkowski, J & Kancs DA 2017, “*New regulations governing land sales in Central and Eastern Europe: Imposing restrictions via particularized institutions*”, Publications Office of the EU, viewed 5 April 2019, <http://publications.jrc.ec.europa.eu/repository/bitstream/JRC102645/jrc102645_lbna28088enn.pdf>.
6. Council of Europe 1992, *Recommendation No. R (92) 8 of the Committee of ministers to member states on soil protection*, Council of Europe, viewed 10 March 2019 < <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804f538c> >.
7. Drábik, D & Rajčániová, M 2014, “Agricultural Land market in Slovakia Under The New Land Acquisition Law”, *Review of Agricultural and Applied Economics*, vol. XVII, no. 2, pp. 84-87.
8. European Parliament 2015, “*Extent of agricultural land grabbing in the EU*”, European Parliament, viewed 5 April 2019, <[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540369/IPOL_STU\(2015\)540369_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540369/IPOL_STU(2015)540369_EN.pdf) >.
9. European Parliament 2018, “Draft report on the fact – finding mission to Slovakia,” European Parliament, viewed 5 April 2019, <http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/CONT/DV/2019/01-28/Slovakia_EN.pdf>.
10. Eswaran, H, Lal, R & Reich, PF 2001, “Land Degradation: An Overview”, in EM Bridges, ID Hannam, LR Oldeman, FWT Pening de Vries, SJ Scherr & S Sompatpanit (ed.), *Responses to Land Degradation*, Oxford Press, New Dehli, pp. 532.
11. Hanes, J 2014, “Pôda a nešetrné zaobchádzanie s ňou – dlhú dobu známe, ale v praxi zanedbávané”, *Vedecké práce VUPOP*, VUPOP, Bratislava, pp. 72-75.
12. Ilavská, B 2016, “Legislatívna ochrana poľnohospodárskej pôdy v SR”, *Vedecké práce VUPOP*, VUPOP, Bratislava, pp. 38 – 45.
13. Ilavská, B & Bezák, P 2015, “New legislative framework of the soil protection in SR”, *International year of soils in the context of sustainable management of soils*, Slovenská akadémia pôdohospodárskych vied, Nitra, pp. 49 -56.
14. Kobza, J 2010, “*Monitoring pôd Slovenska*”, VUPOP, Bratislava.

15. Krížová, S & Buday, Š 2015, "Socio-economic aspects of food consumption in Slovakia: overview of contemporary issues", *Journal of Food and Nutrition Research*, vol. 54, no. 1, pp. 21-30.
16. Kucher, A & Kucher, L 2017, "State and problems of transfer of innovations in land use of agricultural enterprises", *Marketing and Management of Innovations*, vol. 10, no. 3, pp. 43 – 52.
17. Kumar, E & Das A J 2014, "Climate change and its impact on land degradation: Imperative Need to Focus", *Journal of Climatology & Weather Forecasting*, vol. 2, no 1, pp. 1000108.
18. Lazíková, J 2015, "Agricultural land market in the economic analysis of law", Habilitation thesis, Slovak University of Agriculture, Nitra.
19. Lazíková, J, Rumanovská, Ľ, Takáč, I & Lazíková, Z 2017, "Land fragmentation and efforts to prevent it in Slovak legislation", *Agricultural Economics*, vol. 63, no. 12, pp. 559-568.
20. Lazíková, J, Bandlerová, A & Pašová, L 2017, "The ownership and the right of use of agricultural land in Slovakia", *CEDR Journal of Rural Law*, vol. 3, no. 1, pp. 98-103.
21. Lazíková, J & Bandlerová, A 2015, "New rules for acquisition of agricultural land – case of Slovakia", *EU Agrarian Law*, vol. IV, no. 1, pp. 18-27.
22. Lazíková, J & Lazíková, Z 2018, "Land consolidation in Slovakia", *EU Agrarian Law*, vol. VII., no. 2, pp. 20 – 23.
23. Mandler, B, Barja, J, Mitre Campista, ME, Cagáňová, D, Chaouchi, H, Zeadally, S, Badra, M, Giordano, S, Fazio, M, Somov, A & Vieriu, RL 2016, "Internet of Things. IoT Infrastructures", Springer, Cham.
24. Ministry of Environment of the Slovak Republic 2017, "Report on the state of the environment of the Slovak Republic in 2017", Ministry of Environment of the Slovak Republic, viewed 5 April 2019, < <https://www.enviroportal.sk/uploads/report/8142.pdf> >.
25. Némethová, J & Feszterová, M 2018, "Zmeny vo využívaní pôdneho fondu Nitrianskeho kraja v rokoch 2004 a 2016", *21st International Colloquium on Regional Sciences*, Masarykova univerzita, Brno, pp. 685-692.
26. Pašová, L 2014, "Legislation on the protection of agricultural land in the context of the implementation of the thematic strategy for soil protection in Slovak conditions", *EU Agrarian law*, vol. 3, no. 1, pp. 24 – 30.
27. Pašová, L, Bandlerová, A, Melišková, I, & Schwarcz, P 2017, "Agricultural Land Protection – the Case of Slovakia", *Erenet Profile*, vol. 12, no. 4, pp. 64-72.
28. Van Dijk T 2004, "Land consolidation as Central Europe's panacea reassessed", *Symposium on Modern Land Consolidation*, Clermont- Ferrand, International Federation of Surveyors, viewed 5 May 2019
<https://www.fig.net/resources/proceedings/2004/france_2004_comm7/papers_symp/ts_01_vandijk.pdf > .
29. Vilček, J 2011, "Potential and quality parameters of agricultural land in Slovakia", *Geographical Journal*, vol. 63, no. 2, pp. 133-154.
30. Williams, MAJ & Balling, RC Jr 1996, "Interaction of Desertification and Climate", Wiley, London
31. World Business Council for Sustainable Development 2010, "Effective biodiversity and ecosystem policy and regulation", World Business Council for Sustainable Development, viewed 10 May 2019
<https://www.cbd.int/business/doc/WBCSD_Biodiversity_Ecosystem_Policy_Paper_COP%2010%20.pdf >.