

*Renata MARKS-BIELSKA*¹

CONDITIONS UNDERLYING THE INSTITUTION OF FARMLAND LEASE IN POLAND IN 1992-2012

SUMMARY

The aim of the article has been to identify and evaluate main factors which influence the land-lease market in Poland. Statistical data from two institutions, namely the Agricultural Property Agency (APA) and the Central Statistical Office, as well as the author's own research have been used. The time horizon of the analysis covered 1992-2012. At the beginning of the system transformation in Poland, the APA faced a low demand for land acquisition. Formally, the domestic land lease market in Poland mostly consists of the Stock of the State Treasury because land leases between neighbour farmers typically involve small acreage and the vast majority of land-lease contracts on the private market are informal.

In line with the current policy governing the management of farmland in Poland, sale is a preferred solution to lease, as a result of which the number of new land-lease contracts is relatively small, for example in 2012 they covered in total about 11.6 thousand ha. The total number of binding land-lease contracts was 68.9 thousand, which covered 1.3 million ha of farmland from the Stock of the State Treasury (about 28%).

The growing interest in leasing land on the private market can be associated with both a small supply of land offered for sale and the fact that the land lots offered for lease by the ANR are fewer less attractive than previously.

Keywords: land-lease, Agricultural Property Agency (APA).

INTRODUCTION

Farmland is a unique agricultural production factor. Because of its characteristics (inflexibility of an aggregated supply in a short time, immobility, etc.), farmland cannot be treated like other material elements of a production process. The supply of land cannot be enlarged by producing more land to satisfy the current demand. Farmland is essential for plant and animal production, in which sense it eventually determines the food production level. Other, non-agricultural values of farmland are gaining importance nowadays, e.g. landscape values, land as a component of tourism or as an investment asset (Marks-Bielska, 2010). A growing problem for agriculture production is soil erosion too (Spalevic et al., 2013).

¹ Renata MARKS-BIELSKA (corresponding author: renatam@uwm.edu.pl), University of Warmia and Mazury in Olsztyn, ul. Oczapowskiego 4, 10-719 Olsztyn, POLAND.

Paper presented at the 5th International Scientific Agricultural Symposium "AGROSYM 2014".

Note: The author declare that they have no conflicts of interest. Authorship Form signed online.

Obviously, a farmer would rather work on his own fields than leased ones, but several reasons (e.g. high price of farmland, the state's policy in land management, unresolved property rights, etc.) make land-lease a more effective type of land management, provided adequate legal regulations. The European Union state members with developed market economy consider farmland lease to be a rational form of land economy, while creating the legal base to ensure permanence of land-lease contracts. In Western Europe, many farmers work on own and leased land. Land-lease is gaining popularity as the acreage of farms is growing. This solution combines the security of long-term investments located on owned land with the opportunity to enlarge one's farm by leasing more land while investing the capital in some other ventures instead of spending it on land purchase.

Currently, the lease of farmland is the fundamental form of proprietary and structural transformations in agriculture. At the same time, it is the most widespread form of land acquisition by farmers all across Europe, including Poland. This trend is illustrated by statistical data, for example in 2007 the share of leased land in all agricultural land was 89% in Bulgaria, 87.5% in the Czech Republic, 84.5% in France, 70.5% in Germany, 42.6% in the UK (Střeleček et al., 2011). Land-lease contracts are a popular and valid solution in the above countries, where the market of agricultural land is strictly regulated. An example is the longest minimum lease period set at 9 years in Belgium and in France (Swinnen et al., 2008). In Poland, the unique role farmland lease has arisen from the political and economic transformations of the state, which began in the 1990s, after the collapse of the socialist system. At that time, some farmers ceased market production but were unwilling to sell the farmland they owned, so they often leased it. On the other hand, not many lessees had enough capital to buy farmland. A lease contract enabled a lessee to gain access to farmland without engaging much capital, which would have to be even higher now, when the land prices are rising.

After 1989, the transformation of Poland's economic system included the transfer of real property ownership rights in the Polish agriculture, with one of the aims being the liquidation and privatization of state collective farms. The Act of 19 October 1991, on the Management of Agricultural Property of the State Treasury (Dz. U. of 1991 r., no 107, item 465 with subsequent amendments) legislated the abolishment of collective farms and their incorporation into the Agricultural Property Stock of the State Treasury (the APS). Land from the State Land Fund (SLF) was also included in the Stock. The APS is managed by a state institution originally called the Agricultural Property Agency of the State Treasury, but renamed to the Agricultural Property Agency (the APA) in 2003.

The arable land market in Poland covers two types of properties: private land owned by farm owners, and land owned by the State Treasury. The market of privately owned farmland is regulated primarily by the market mechanisms, but to a small degree it is supported by the state, e.g. bank loans at preferential rates for the purchase of land. The market of the State Treasury land is regulated

by the state and, to some extent, supported by the market mechanism (an obligation to sell land by tender) (Rudnicki, 2002: 149).

From 1992, when the APA was established, until 2012, the agency received 4.74 m ha of land, mainly from former state farms (3.8 m ha) and some from the State Land Fund (0.6 m ha), which it incorporated into the Agricultural Property Stock of the State Treasury. About 62% (over 2.9 m ha) of the received land was redistributed permanently (by transfer of ownership), including the sale of over 2.3 m ha (about 49%). As of 31 December 2012, the Stock comprised approximately 1.8 m ha, of which 1.3 m ha was leased. About 321.4 thousand ha remained to be distributed (Sikorska, 2013:18-19). Formally, the domestic land-lease market in Poland is composed mostly of the Agricultural Property Stock of the State Treasury, because land leases between neighbour farmers typically involve small acreages and the vast majority of lease contracts on the private market are informal; besides, they are not monitored by the state (Marks-Bielska, 2014: 196)].

The objective of this paper has been to identify and evaluate the factors which shape the market of farmland lease in Poland.

MATERIAL AND METHODS

Statistical data from the Agricultural Property Agency of the State Treasury/the Agricultural Property Agency and from the Main Statistical Office were used as well as the results of the author's own investigations among agricultural property lessees in Poland and in the Province of *Warmia and Mazury* (*województwo warmińsko-mazurskie*), a region representative for the analysed subject. A review of literature was made to analyse the above subject. In addition, relevant legal acts and regulations were reviewed. The time scope was 1992-2012. The lower time bracket stands for the early state transformation, while the upper one corresponds to the latest statistical data available.

RESULTS AND DISCUSSION

Land lease in the Polish agriculture

Lease is a form of land turnover. By definition, this form of land use does not change the ownership relationships on the private or state land market. On the state market, the State Treasury remains the owner of the leased land, the APA acts as a fiduciary and the lessee is the land user.

The lessor gives to the lessee a land lot to be used, and in return receives a rent. On the private market of farmland lease in Poland, the value and form of rents are set freely. The author has run a representative, countrywide study including 943 farmers, and found out that most of the farmers (67.33%) who leased land from private owners (neighbours, family, relatives, etc.) did not pay any rent, but were obliged to maintain the leased land in good farming condition. This is required to receive payments to farmland from the EU budgets, which were collected by 39.27% of the examined land owners leasing their land and by 56.77% of lessees using farmland; in 3.96% of the cases, the lessor and lessee

shared the EU payments (Marks-Bielska 2010, p. 259-260). The information gathered by the Institute of the Economics of Agriculture and Food Economy, the State Research Institute (Sikorska, 2013: 36) indicates that an average lease rent for privately owned farmland in Poland was 767.5 LN/ha (about 182.7 EUR/ha) in 2012. Compared to 2011, it meant a 63% increase, partly stimulated by some restrictions imposed on those who wanted to lease farmland from the APA, which in the more recent years has opted to sell rather than to lease the land from the Stock. Another reason is the law, which clearly states that it is land lessees who should be beneficiaries of direct payments (Sikorska, 2013: 36).

On the state farmland lease market in Poland (land owned by the State Treasury, which the APA handles), rents are established by tender according to the current market trends. A rent on agricultural land depends on the type of agricultural land use, soil valuation class, level of taxation, etc., and is correlated with average prices on real estate properties owned by the Agricultural Property Stock of the State Treasury in a given administrative district. The calculated rent also takes into account the three-year average price of wheat and is given in dt of wheat per 1 ha. The exact rent paid by the lessee is calculated from the average price of wheat from the last half-year, announced by the Main Statistical Office (GUS). The level of rent obtained by the APA is also affected by some unique characteristics of the leased land (buildings and facilities, quality of soil, localization, stolons, etc.), market trends, local demand and supply of farmland from the Stock, as well as the volume of arable land available to be leased on the private market. In its first decade, the APA collected an average rent equal to the value of 2 dt of wheat annually per 1 ha. In the later years, the rent increased to 8.5 dt wheat/ha in 2011 and 8.7 dt wheat/ha (Sikorska, 2013: 44-45).

In line with the current policy governing the management of farmland in Poland, sale is preferred to lease, as a result of which the number of new land-lease contracts is relatively small, for example in 2012 they covered in total about 11.6 thousand ha. The total number of binding land-lease contracts was 68.9 thousand, which covered 1.3 million ha of farmland from the Stock (about 28%).

The results of the research on land-leases in the private sector conducted by the Institute of Agricultural Economics and Food Economy in 2011 revealed that about 18% of private farmsteads used both own and leased farmland. Land lease plays an important role in the improvement of the agrarian structure of Polish farms, a claim supported by the finding that an average size of a farm with leased land was about 22 ha of agricultural land (AL), including 8 ha of leased land, while the analogous parameter for the whole sample was about 10 ha AL.

The growing interest in leasing land on the private market can be encouraged by both a small supply of land offered for sale and the fact that the land parcels offered for lease by the APA are fewer and less attractive than previously. Consequently, land-lease rates between individual farmers have risen by as much as 63%. Their average level, however, was lower than the worth of subsidies per 1 ha of agricultural land, which means that the subsidies were most often cashed by land owners (Sikorska 2013: 35-36; Marks-Bielska 2014: 196).

After 1992, land lease was the basic form of the State Treasury farmland management in Poland. It was favoured by the state, as the available farmland could be transferred quickly to land users. It was also liked by farmers, who did not have to invest large capital instantly, but were able to spend their financial means on production and investments. The data in fig. 1 show a decreasing tendency in land lease in 2004-2005, unlike in 2006, when an increase was observed in the acreage of leased land. However, the two following years, 2007-2008, witnessed a large decrease in the acreage of leased farmland, which was partly due to the fact that the APA's offer had been running out of larger and well-managed land estates available for lease from the Stock. On the other hand, there was a growing interest in the purchase of land.

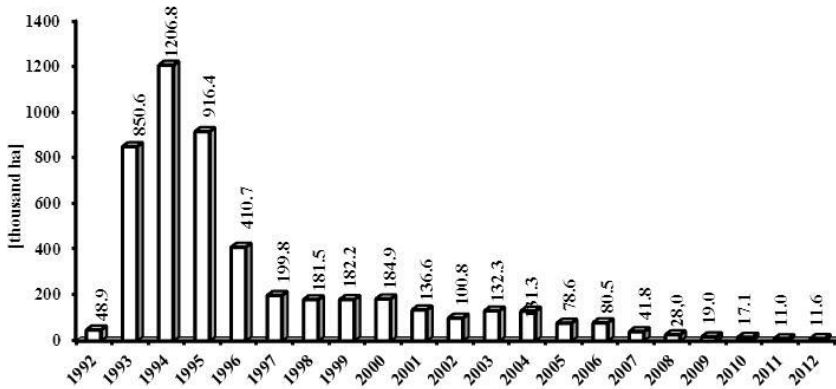


Fig. 1. Acreage of leased farmland from the Agricultural Property Stock of the State Treasury in 1992-2012 (*Source: The author, based on APA data*)

The privatization policy implemented by the APA leads to a reduced acreage of leased land and a smaller number of leases. In 2008-2011, the number of land lease contracts fell by over 40,000. In 2007, the total acreage of leased land from the Stock was less than a half of that in 2006. In 2012, the total area of leased farmland was 11,600 ha; in 2011 – 11,000 ha, in 2010 – 17,200 ha and in 2009 – 19,000 ha. It is now the APA's priority to sell state-owned land. For reasons connected to organization and finances, much emphasis is laid on selling small land plots, most often to their current lessees. The smallest land parcels are leased only when it is forced by such considerations as stalons growing on a given field, land zoning, or other circumstances which prevent sale (e.g. claims of former owners, probable change in land use in future spatial management plans, planned transfer of the land, free of charge, for example to construct a road).

The data published by the APA show that 1,319,000 ha of land (about 75% of the total farmland in the Stock) were leased as of 31 December 2012. The lessees held 68,900 lease contracts, of which almost 68,000 were land leases which enlarged existing farms.

The agricultural policy in Poland on land lease should be more specific – it should state whether this form of land management in farming will be treated as a stage in the privatization of land from the former state farms (as implied by the latest amendment of the Act on the Management of Agricultural Estates of the State Treasury, passed by the Parliament on 16 September 2011, Dz. U. of 2011, no 233, item 1382), or else if there is ground to expect that land lease in agriculture will be supported and reinforced, following some positive examples from West European countries. The actual situation implies that the process of selling land owned by the State Treasury is accelerating and the number of offers to sell land by tender (especially by limited tender to farmers) is growing.

According to the guidelines of the APA, approved by the Minister for the Development of Rural Areas and Agriculture, the land which re-enters the Stock due to dissolved or expired lease contracts, same as the remaining land in the Stock, is offered for sale. Lease contracts are offered only on such land which cannot be sold because of certain circumstances, legal and formal limitations, economic or organizational restraints, etc. Lease contracts are done for no more than 6 years, and extended for other 3 years. Contracts for longer time periods are extremely rare (e.g. when the lessee participates in programmes financed from the EU Fund for the Development of Agriculture, the land estate incurs high investment spending, etc.) (Marks-Bielska, 2012b: 27).

One of the objectives of the current reform in Poland concerning farmland is to accelerate the privatization of land owned by the State Treasury, which means that much of the land which is now leased will have to be sold. The aforementioned amended version of the Act on Management of State Treasury Agricultural Property included changes pertaining to large farms leasing state land. These changes affect farms which lease 428.5714 ha² and more of the APA Stock land. Now, the APA will be able to retrieve 30% of the leased land. According to the legal provisions, the retrieved land belongs to the Stock and is offered for sale, mainly by limited tender directed to farmers who enlarge their family farms. The undertaken action concerns 1,085 farms, to which the APA staff have addressed notifications with offers to exclude some land from lease. The total acreage of leased land for exclusion is 135,753 ha (less than 1% of arable land in Poland, and less than 10% of the land leased by the APA). The agency has signed 675 annexes to lease contracts with lessees of state land parcels which cover the defined acreage. Lessees of 43% of the said acreage (58,351 ha; 410 contracts) did not accept the conditions proposed by the APA such as the exclusion of 30% of the leased land. Eventually, 675 (62%) annexes to contracts were signed, excluding in total 77 453 ha (57%).

²²This acreage was adopted because Article 23 of the Constitution of the Polish Republic states that a family farm is the basic form of management in the Polish agriculture. One of the criteria classifying a family farm is the acreage of no more than 300 ha of farmland. The acreage set in the Act (428.5714 ha) means that after the exclusion of 30% of land a farm which relies on state farmland lease will maintain the status of a family farm.

The decision to make a change in the lease contract was for a lessee to make, but the consequences of that decision were stringent. Should a lessee refuse to accept the amended conditions and exclude 30% of the land leased from the APA, they lost the right to be the first to buy the leased land or to extend the lease contract for the following years. If the annex was signed, meaning that the lessee agreed to make the statutory land exclusion, they have the right to buy part or the whole of the leased land, according to the provisions made in the Act, regardless of the time for which the lease contract was done. The binding law states that an APA land parcel can be sold if the total acreage of arable land owned by the buyer does not exceed 500 ha on concluding the sale contract.

Farmers who wish to expand their family farms may benefit from the above change, but it can be seen as a change for the worse by those lessees who have farmed a given area of leased farmland for many years and have already raised the problem of uncertainty as the major disadvantage of leasing land from the APA (Marks-Bielska, 2012b: 58). The author's own studies (Marks-Bielska, 2010: 263-264) have revealed that as many as 94.16% of the surveyed lessees admitted that the uncertain future of farming on land leased from the State Treasury was the main barrier to economic activity. A higher risk of farming on state-owned land, as the lessees pointed out, is created by the fact that some land can be excluded from larger farms based on the stipulations included in lease contracts signed with the APA; prior to the amendment of the Act, the excluded land could make up 20% of the leased land.

Among other factors which shape the leased land turnover in Poland, it is worth mentioning that Polish farmers are unwilling to sell land, especially the land they inherited from their parents or grandparents and wish to pass to their children or grandchildren, irrespective of what professional way of life they will have chosen. The unwillingness to sell land (especially the land owned for generations) is further strengthened by the fact that land owners can receive direct payments, which – depending on the acreage of owned farmland – may secure the financial means for the farmer and his family. Some land owners also expect that prices of farmland will rise dramatically after the 12-year transition period following Poland's accession to the EU, when sale of farmland to foreign citizens is restricted, comes to an end. Some of the above considerations have been verified empirically, in research on the agricultural land market in Poland (Marks-Bielska, 2010: 246-284).

The field observations made by the author, during her frequent empirical studies on the farmland market in Poland have demonstrated the important role of privately owned land and its lease. Because of its informal nature, it is difficult to assess the total acreage of leased private farmland. Such lease contracts are not recorded in public statistics and are not monitored by the state. In the near future, when the agricultural policy pursued by the APA will lead to a situation when most state arable land will have been sold, it can be expected that private lease contracts will gain more importance.

CONCLUSIONS

Land is the basic production factor in agriculture. The form in which it is used is not so important, although the safest form is obviously the right of ownership. However, if there are adequate legal regulations, which enable a farmer to work on leased land and which secure the interests of both the land owner and the lessee, then land-lease can also be an attractive form of land use. Positive examples, for example, from Belgium, France or Germany, are convincing.

The main factors shaping the land lease market in Poland can be divided into two groups: legal grounds (historic, connected with *dispossession*, state transformation, current law), as well as tradition and culture. In the Polish agriculture, ownership rights to farmed land are a preferred solution. Changes in the social and economic system, dissolution of State Farms and inclusion of state-owned farmland to the Agricultural Property Stock of the State Treasury have all contributed to the establishment of a new land lease market, next to the previous private market (neighbour-to-neighbour lease), there is now a market on which state land is leased. In the early years of the transformation, it was a very popular solution to lease farmland from the state, instead of spending money on land purchase; the capital thus saved could have been invested in buildings, machinery, farm animals and other agricultural production means. Lease was popular also because of the increasing prices of farmland.

Another distinguishing period in the recent history of land (private and state) lease in Poland was in the pre-accession time, followed by the accession to the EU and implementation of the Common Agricultural Policy instruments. At that time, farmers were more interested in buying land, but also less willing to sell the land they owned. All land owners counted on benefits derived from owning farmland (e.g. direct payments).

The current agricultural policy, executed by the Agency of Agricultural Property, does not favour leasing the farmland from the Stock of the State Treasury. Two facts that can support this claim are the exclusion of 30% of previously leased land from larger estates or the preference given to land sale as a permanent form of managing state land.

The above situation, i.e. continuously increasing prices of land, the transition period limiting the purchase of farmland by foreigners, which will expire in 2016, the growing shortage of more attractive land parcels offered to be leased from the Stock, means that private lease of land can be expected to gain more importance.

REFERENCES

- Act on the Shaping of the Agricultural System, of 11 April 2003 (Journal of Law, 2003, no 64, item 592).
- Marks-Bielska, R (2010): Rynek ziemi rolniczej w Polsce - uwarunkowania i tendencje rozwoju [The agricultural land market in Poland – conditions and tendencies in the development], Wyd. Uniwersytetu Warmińsko-Mazurskiego w Olsztynie, Olsztyn (in Polish).

- Marks-Bielska, R (2012a): Interwencyjna rola Agencji Nieruchomości Rolnych na rynku ziemi rolniczej W: Przemiany w rolnictwie i na obszarach wiejskich z udziałem Agencji Nieruchomości Rolnych na przykładzie województwa warmińsko-mazurskiego. [The interventionist role of the Agricultural Property Agency on agricultural land market. In: Changes in Agriculture and Rural Areas in which the Agency of Agricultural Real Estates is Involved: A Case Study Covering the Province of Warmia and Mazury]. Wyd. UWM w Olsztynie, Olsztyn, (11-31) (in Polish).
- Marks-Bielska, R (2012b): Przekształcenia własnościowe w rolnictwie w ujęciu regionalnym. W: Przemiany w rolnictwie i na obszarach wiejskich z udziałem Agencji Nieruchomości Rolnych na przykładzie województwa warmińsko-mazurskiego. [Ownership Transformation in Agriculture in the regional focus. In: Changes in Agriculture and Rural Areas in Which the Agency of Agricultural Real Estates is Involved: A Case Study Covering the Province of Warmia and Mazury]. Wyd. UWM w Olsztynie, Olsztyn, (11-31) (in Polish).
- Marks-Bielska, R (2013): Factors Shaping the Agricultural Land Market in Poland. *Land Use Policy*, 30, ELSEVIER, (791-799).
- Marks-Bielska, R (2014): Factors Affecting Farmland Management in Poland in 1992-2012 in the Institutional Context. In: *Economic Science or Rural Development 2014*. Latvia University of Agriculture, Jelgava, No 35, (189-198).
- Raport z działalności Agencji Nieruchomości Rolnych na Zasobie Własności Rolnej Skarbu Państwa w 2012 r. [Report on the Activities of the Agricultural Property Agency of the Stock of Agricultural Property of the Treasury in 2012]. ANR Warszawa, 2013 (in Polish).
- Rudnicki, H. (2002): Implikacje integracji Polski z Unią Europejską dla rynku ziemi rolniczej. [Implications of Poland integration with the European Union of the agricultural land market], *Roczniki Naukowe SERiA*, t. IV, z. 2, (18-152) (in Polish).
- Sikorska, A. (ed.) (2013): Rynek ziemi rolniczej. Stan i perspektywy. [The Market of Agricultural Land. State and Perspectives]. IERiGŻ, Warszawa, 2013 (in Polish).
- Spalevic, V, Grbovic, K., Gligorevic, K., Curovi,c M., Billi, P. (2013): Calculation of Runoff and Soil Erosion on The Tifran Watershed, Polimje, North-East of Montenegro *Agriculture & Forestry*, Vol. 59. Issue 4: 5-17.
- Střeleček, F., Lososova, J. Zdeněk, R. (2011). Farm Land Rent in the European Union. *Acta Univ. Agric. Et Silv. Mendel. Brun.* LIX, N. 4, (309-318).
- Swinnen J/ Ciaian P./ D'Artis K (2008). Study on the Functioning of Land Markets in the EU Member States under the Influence of Measures applied under the Common Agricultural Policy, EERI, Brussels.