



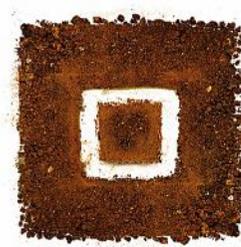
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FARMING THE BLACK EARTH:
THE HISTORY AND POLITICS OF UKRAINE'S AGRICULTURAL LAND
MARKETS BEFORE, DURING AND AFTER THE WAR. NO 1-24





**FARMING THE BLACK EARTH: THE
HISTORY AND POLITICS OF UKRAINE'S
AGRICULTURAL LAND MARKETS BEFORE,
DURING AND AFTER THE WAR. NO 1-24**

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PREFACE

Farming the black earth: the history and politics of Ukraine's agricultural land markets before, during and after the war

Ukraine is a leading global producer of food commodities and agriculture is a central pillar of the country's economy and future development. Rich and abundant farmland is one of Ukraine's most valuable resources. Until recently, the transfer of land titles was restricted by a long-standing moratorium on land sales. Although a market for land leases had developed, land tenure was marked by a significant degree of informality and legal uncertainty. In 2020, new amendments to the Ukrainian Land Code laid the legal and institutional foundation for the gradual liberalization of the land market starting in 2021.

The ongoing war in Ukraine since 2022 has interrupted this historically important and ambitious land reform, raising new questions about how Ukraine should proceed with the creation of land markets. On the one hand, a transparent and functioning land market is extremely important for Ukraine's post-war recovery and reconstruction. On the other hand, carrying out land reforms under the conditions of war and foreign occupation is difficult and risky. A sizeable share of the Ukrainian population has been concerned about land concentration and foreign ownership since the collapse of the Soviet planned economy in 1991. War-related destruction and uncertainties are creating new challenges and concerns.

Ukrainian policymakers therefore need to balance the need for large-scale investments in infrastructure destroyed during the war, with the need to respond to public concerns about land concentration and the uncertainties caused by the war. This article outlines the history of the liberalization of the Ukrainian land market, and then details the main challenges and political concerns of the ongoing land reforms.

KEY WORDS

Ukraine, agriculture, land markets, post-war reconstruction.

ABBREVIATIONS

EU	European Union
GDP	Gross domestic product
KSE	Kyiv School of Economics
IMF	International Monetary Fund
UHA	Ukrainian Hryvnias
UN	United Nations





1. LAND: ONE OF UKRAINE'S MOST VALUABLE RESOURCES

Abundant arable land, fertile soil and long growing seasons have historically put agriculture at the centre of Ukraine's economy. Ukraine is one of the most important contributors to global food security: tens of millions of citizens in Asia, Africa, and the Middle East rely on affordable grain imports from Ukraine (UN, 2022). Ukrainian farms are the world's leading producers and exporters of sunflower oil, and a very significant share of the world's corn, wheat, barley and rapeseed are grown on Ukrainian soil.

In 2021 agriculture was the country's fastest growing sector, accounting for 41 percent of export earnings and around 20 percent of gross domestic product (GDP) (Ministry of Economy of Ukraine, 2022). By 2022 – due to other sectors of the economy declining during the war – agriculture's share of Ukraine's GDP had increased to 53 percent (Ministry of the Economy of Ukraine, 2022). Roughly a third of Ukraine's population live in rural areas, and agriculture accounts for 17 percent of domestic employment; the agricultural sector thus employs a much larger share of the population than in Western Europe and the United States of America (Ministry of Economy of Ukraine, 2022).

Given the critical importance of rural production both for Ukraine's war economy and for its post-war recovery and reconstruction, Ukraine's land is one of its most valuable resources. Ukraine has more than 41 million hectares of farmland – nearly 70 percent of the country's overall territory (FAO, 2008; USAID n.d.). For comparison, the arable land of all European Union (EU) countries combined is 178 million hectares (Polityuk, 2019).

But Ukraine's farmland is not only abundant, it also has some of the world's most fertile soil: much of the country's farmland is made up of the nutrient dense "Black Earth," or chernozem (FAO, 2022a).

Ukrainian citizens have had the right to own farmland since 1992. However, land sales are subject to a long-standing moratorium, enacted in 2001 in response to political and logistical challenges with privatization, which prohibited new owners from transferring ownership other than via

inheritance. Land markets were a politically contested issue because many Ukrainians were opposed to the sale of land. The moratorium forestalled the formation of a formal land market and thus created a significant degree of uncertainty and informality in land use. Instead, in response to the growing demand by agricultural producers to farm the land, a market for land leases developed (Gorgan and Hartvigsen, 2022). Changing public opinion trends on land markets are discussed in section 4 below.

An amendment to the Land Code adopted in 2020 set the stage for the gradual creation of land markets between 2021 and 2024 (Ukraine, 2020; Livytska, 2021). The reforms concerned the transfer of ownership rights in respect of the privately held land plots that had been distributed to the rural population as part of the land reform in the nineties.

Proponents of these reforms hoped that the new legal rules and land markets would pave the way for investment in the countryside, allowing more Ukrainians to benefit from the country's exceedingly valuable natural resource. Although these reforms took a gradual approach and were accompanied by measures intended to safeguard the interests of all Ukrainian farms, land markets remained controversial. Political opposition to land reforms tends to stress three interconnected issues: the concentration of land in the hands of a few large conglomerates, the ability of family farmers and rural households to participate in land markets, and foreign ownership of land.

Since 24 February 2022, the newly created land market in Ukraine came to a temporary halt and the planned trajectory of land reforms was interrupted. Ukraine's Registry of Property Rights and the State Land Cadastre officially closed after the invasion, as the war complicated the verification of land claims (Ukraine, 2022). Since then, land markets have re-opened, but the ongoing hostilities have grievously damaged fields and farm infrastructure and raised many new questions about the post-war reconstruction of the country's agriculture.



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Ukraine has a bimodal agrarian structure, characterized by the coexistence of large-scale industrial agribusinesses with small and medium private farmers, of which family farmers and rural households are the most common types of private food producers. Agricultural conglomerates are known as "agroholdings" have emerged in Ukraine, as in many other post-Soviet countries (see section 3 below).

Large and small farms have been affected differently and responded differently to the war-related damages. On the whole, large industrial agribusinesses were more seriously affected by the disruption of export routes, while family farmers and rural households have found ways to cope with the difficult conditions brought about by the war and have continued to play an important role in producing food for domestic consumption (KSE, 2023a, b; Wengle and Dankevych, 2022; Mamonova, Wengle and Dankevych 2023).

Given the exceedingly important role that agriculture plays in Ukraine's economy, policymakers and many stakeholders in agriculture hope that farming and new processing facilities will be one of the drivers of the country's post-war future. The premise of this paper is that the future trajectory of Ukrainian land markets will be profoundly influenced by the history and politics of land ownership in the post-Soviet period.

Our main goal is to provide a detailed, balanced and up-to-date analysis of the political dynamics that shaped the emergence of land rights in Ukraine's recent history, and which now form the background for the urgent questions raised by the conflict. To achieve this, we have synthesized the findings of a growing body of academic and interdisciplinary studies, publications by the Ukrainian Government and other governments, international organization reports, and a large number of media reports on the most recent events related to the war, while adding our own analysis of contested political issues and new data on war-related damages to the existing discussion.

We argue that land markets are not just a technocratic challenge, but also a political one, and that the positions of both proponents and opponents of land reforms should therefore be taken into account as Ukraine and



its global partners devise war-time adaptation strategies and plan the country's post-war reconstruction.

The war has created a host of new challenges and needs: at a minimum, fields will need to be de-mined and the sector's transport, storage and energy infrastructure will have to be rebuilt. Other facilities and rail corridors will need to be constructed anew to connect Ukrainian agriculture to European and global markets. One significant source of capital for the Ukrainian economy over the last decade has been foreign investment. However, at the same time, there are Ukrainian civil society groups who have organized to draw attention to the needs of small farms during and after the war and who remain concerned about corporate and foreign ownership of land. International organizations have largely supported land reforms, though they have differed in their emphasis. The International Monetary Fund (IMF), World Bank and FAO have long been proponents of land reforms and the creation of markets. Today, FAO also draws attention to the risks of proceeding with land reforms during wartime, cautioning that "armed conflict and its repercussions reconfigure the network of social relations upon which all land tenure systems depend" (FAO, 2022a).

Based on our analysis of the trajectory of land reforms and of the new challenges created by the war, we conclude that a transparent and functioning land market is critically important for Ukraine, but that the concerns about the future of small family farms are also vital for sustainable agriculture and rural development more generally. As large and small farms make different contributions, they have different needs during the war and for post-war reconstruction. The modality of land reform will also likely be a critical point of discussion for Ukraine's aspiration of integration into the European Union. The Ukrainian parliament and Government of Ukraine will face a challenging dilemma: on the one hand, the rural sector will require very significant financial resources to rebuild the country after the war, which could be generated by large agribusiness and foreign owners. On the other hand, small farmers and rural households have played an important role for domestic food security both before and during the war, and their needs will differ from those of agribusiness and foreign owners.





2. THE DISTINCTIVE HISTORY OF SOVIET-ERA AND POST-SOVIET LAND RELATIONS

The legacy of Soviet-era collectivization of land

The rights to own, buy and sell land – essential for the creation of land markets – are connected to the bundle of property rights that regulate citizens' control and use of land. Struggles for land rights have been fought by many and diverse political movements and organizations across the world. Some of the 20th century's most prominent struggles for land were fought by landless peasants and indigenous groups who sought to regain control and restore forms of communal ownership that had been obliterated or greatly reduced during European colonial rule (Grejales, 2021).

In the territory of the former Soviet Union, a history of state control and state ownership has created protagonists and political struggles that are quite distinct from those in the Global South and also generally less well known. During a collectivization drive in the 1930s, Soviet peasants were forced to join state-owned collective farms – a top-down modernization effort that was followed by eight decades of centralized economic planning. Stalin's collectivization was carried out most brutally in the Ukrainian and Kazakh Socialist Soviet Republics and in Russian Federation's Volga region, leading to starvation and millions of deaths (Applebaum, 2018; Cameron, 2018). During the remainder of the 20th century, village life in the Soviet countryside was radically transformed by collectivization and by far-reaching rural "modernization" projects.

In 1991, when the Soviet Union ceased to exist and the planned economy collapsed, the newly independent countries of this region, which shared the historical experience of collectivization, charted new paths for land ownership and control. Across the region, the establishment of private property was largely seen – albeit with some exceptions – as a creation of new rights for the citizens of newly created nation states, rather than as a process of restoration of land to original owners, as was often the case elsewhere in the world.

However, land reform processes were not uniform across the former Soviet Union: countries varied in the degree and speed at which they pursued privatization (Csaki and Lerman, 1997; Gorgan and Hartvigsen, 2022).

A number of countries – including the Russian Federation, Ukraine, and Kyrgyzstan, for example – privatized their agrarian economies in the 1990s, although in all these countries the de facto restructuring and liberalization did not start until the 2000s. In other countries, the state continues to retain significant control over land, agricultural production and exchange.

In Belarus, land, crop and livestock production all remain state-owned and are a very significant source of budgetary and export revenues. In Kazakhstan, Tajikistan, Uzbekistan and Turkmenistan the state retains formal ownership over agricultural land, although citizens received use rights to various degrees (Gorgan and Hartvigsen, 2022). In Central Asian countries, where cotton is the principal cash crop for the national economy, politically connected elites have retained de facto control over the cotton sector (Hoffman and Visser, 2021).

Just as the processes of land reforms have varied greatly, so have the outcomes. Some post-Soviet countries ended up with highly concentrated, private ownership – the Russian Federation is paradigmatic of this outcome (Wengle, 2021). In contrast, land reforms in Kyrgyzstan ended up distributing land across a large share of the rural population (Wengle, Sanchez-Greenwood, Musabaeva, forthcoming).

These outcomes and the trajectories of land privatization were shaped by the domestic political processes: in some countries, land reforms were shaped through the democratic involvement of citizens, in others it was a top-down process that followed the logic determined by authoritarian regimes (Csaki and Lerman, 1997). As land is an exceedingly valuable resource, these processes were eminently political in all countries.

This in turn warrants careful analysis of the political processes that have shaped land reforms.



3. UKRAINIAN LAND REFORMS AND LAND MARKETS BEFORE THE WAR

Thumbnail sketch of 30 years of Ukrainian land reforms, 1992–2020

In Ukraine, the 1992 Land Code eliminated the state's monopoly on ownership of land, which had been a feature of the Soviet system since 1917, and allowed for land to be privatized to rural citizens and former collective farm workers. In the thirty years since 1992, the legal and institutional basis for private land rights have continued to evolve in a highly political process.

Most of the Ukrainian land that had belonged to Soviet-era state farms was allocated to current and former collective farm workers, with a smaller share of land remaining in a common undistributed reserve. The average size of land plots to be allocated in accordance with the 1992 law was 3.6 hectares, with plots allocated to active workers being slightly larger than those allocated to pensioners (Csaki and Lerman, 1997).

Early land reforms in Ukraine were implemented in two stages. In the first stage, land shares were distributed to employees and pensioners of the collective and state farms from 1990 to 1999; in the second stage, from 1999 onwards, there was a large-scale conversion from land shares to physical parcels (Hartvigsen, 2013). Annex 1 summarizes the landmarks of Ukrainian land reforms.

Despite the important legal changes enacted in 1992, the process of allocating private ownership was delayed for a number of reasons. Many of the farm workers who had stayed in rural areas lacked the capital to start commercial farms. Rural citizens who left the collective farm and villages during that time sometimes had difficulties obtaining physical parcels of land, even when they had received "paper" land shares, or certificates.

By 1995, only 3 percent of certificate holders had registered their land rights (Lerman *et al.* 2007). Consequently, the privatization of farmland was on the whole not followed by a change in farm structure, as the proponents of reforms had hoped – in other words, state farms were not restructured into

smaller, more productive farms over the course of the nineties. Based on a survey of Ukrainian farmers conducted in 1996, five years after the onset of privatization, Csaki and Lerman argued that "Ukrainian agriculture remains dominated by large collective structures that continue to operate according to old principles, and the recorded diversity of new organizational forms is nothing more than a result of 'changing the sign on the door'" (Csaki and Lerman, 1997).

Against this background, and at a time of general political and economic instability, rural families depended on cultivating household plots for subsistence, farming between one and five hectares on average.

Over the years, some of these households were able to expand their production and become more commercially oriented; some withdrew land shares from former collectives, or rented land from neighbours and registered private family farms.

These small household farms continued to develop: today, there are 2.5 million rural households that are actively involved in food production for family needs and eventual sales in domestic markets, according to statistics from the Government of Ukraine (Mamonova, 2022). These rural households cultivate 30 percent of Ukrainian land, contributing roughly 42 percent of the country's total agricultural output.

In addition to these very small household farms, Ukrainian family farms are somewhat larger, cultivating about 50–100 hectares of land on average, which by Ukrainian standards are still considered rather small farms.

Such farms tend to be more commercially oriented, but still largely rely on the labour provided by family members. Currently, Ukraine has over 48 000 registered family farms; they cultivate 15 percent of Ukrainian farmland produce, and nearly 9 percent of gross domestic agricultural output.

Together, family farms and rural households account for the vast majority of the domestic production of the following agricultural products – 85 percent of vegetables, 80 percent of fruits and berries, approximately 75 percent of milk and more than 35 percent of meat (figures from UkrStat and the National Academy of Sciences of Ukraine, cited in Mamonova 2022



and Mamonova 2023). These farms are thus critical pillars of domestic food security.

Throughout the nineties, agriculture suffered a precipitous collapse in output, much like the Ukrainian economy as a whole. By the early 2000s, Ukrainian farms still struggled; most outside observers attributed the difficulties that farms faced at least in part to the institutional environment of land reforms, including the moratorium on land sales enacted in 2001 (Kvartiuk and Herzfeld, 2019). The moratorium initially restricted the rights of private landowners for six years, but was renewed several times and remained in effect until 2021. It mandated that privately owned land may be transferred only via inheritance, or by alienation only to the local authorities from which it was originally received (Csaki and Lerman, 1997).

Although Ukraine's institutional reforms during the 1990s and early 2000s were widely considered to be insufficient, the tremendous commercial opportunities clearly presented by the fertile Ukrainian soil attracted investment from both Ukrainian and foreign sources (Kuns, Visser and Waestfelt, 2016). Especially in the period after 2009, investments spurred Ukrainian agricultural production, evident in tremendous growth in total output and higher yields. Ukraine experienced a very significant and rapid rural recovery, reversing the collapse of agricultural production that had characterized the nineties.

Agroholdings (ahrokholdynhy) – vertically and horizontally integrated groups of affiliated agricultural enterprises specializing in high-input monocrops predominantly destined for export markets – became the largest actors in Ukrainian agriculture.

Although Ukrainian agriculture remains very diverse, with farms of varying sizes, agroholdings grew most rapidly in the mid-2000s and produce a large share of Ukraine's commodity crops. While there are no official statistics on land farmed by these kinds of agricultural operators, the share of land farmed by agroholdings is estimated to be between 16 and 30 percent of Ukraine's arable land.¹

These corporate farms rely on input-intensive farming and have brought cutting-edge farming technologies to Ukrainian farms. The financial backing of Ukrainian agroholdings stems from both domestic and foreign sources (Reicher and Mousseau, 2021).² Ukraine has some of the largest tracts of arable land that is farmed by foreign investors; foreign companies lease an estimated 3.3 million hectares of farmland and have facilitated technology transfers that have helped modernize Ukrainian rural production (Ecodiya, 2021, Matvieiev 2023).

Lease markets: a shadow economy for land markets and decentralization

Although the moratorium had prevented the creation of a land market, Ukraine did create the legal basis for a rental market for land plots and so a growing group of agricultural entrepreneurs have relied on long-term leases for up to 49 years. Leases have been common in other countries and have to some extent served as a functional equivalent for ownership. Long-term leases in particular can act as functional equivalents of ownership rights. In Ukraine, the average lease was much shorter, which tends to reduce incentives for investments with pay off periods over longer time horizons (Kvartiuk, Herzfeld, Martyn and Bukin, 2020).

¹ Gagalyuk, Valentivo and Yefimenko (2020) estimate that the largest 85 agroholdings farm as much as 30 percent of Ukraine's arable land. In a well-respected Ukrainian land database, Tripoli, 120 companies refer to themselves as agricultural holdings companies, farming a total of 6.7 million hectares of the country's most fertile land, adding up to 16 percent of the country's total arable land.

² Ukraine's three largest farms are Kernel, UkrLandFarming and NCH Capital. Kernel (570 500 hectares) is majority owned by a Ukrainian citizen, but also registered in Luxembourg; UkrLandFarming (570 000 hectares) is owned by a Ukrainian citizen; and NCH Capital (430 000 hectares), owned by a United States' private equity firm MHP (370 000 hectares). Other major corporate lease holders include Astarta (250 000 hectares), the Continental Farmers Group (195 000 hectares), which is owned through a majority stake by the sovereign wealth fund of Saudi Arabia, and AgroGeneration with 120 000 hectares, owned by a French agricultural company (Reicher and Mousseau, 2021).



The lack of a market for ownership stakes has also depressed rent prices for landowners. Agroholdings in particular benefited from a reliance on these leases and the low cost of land in Ukraine, which have provided them with a significant cost advantage vis-à-vis farmers in other Eastern European countries.

In addition to legal lease agreements, a significant shadow economy for land has evolved over the last three decades, giving rise to the proliferation of so-called “grey” leases. The types of informal and illegal agreements concerning land use were quite varied and by their nature difficult to document, but in the most general terms they are all characterized by private use of land not officially registered in the country’s cadastre system, in return for undisclosed payments.

The prevalence of the shadow economy for Ukrainian land is impossible to quantify precisely, but by all accounts, informal arrangements have been very common, especially for shorter term leases.

Some estimate that about a third of Ukraine’s agricultural land is farmed under such grey leases (Getman, 2020). A high degree of informality is considered detrimental for a number of reasons: it depresses prices and rents for landowners who legally register land leases, it deprives the government of tax revenues, and lastly, it makes owners and producers more vulnerable to illegal predation (*reyderstvo*).³

It is also of note that Ukraine has undertaken a very significant and far-reaching process of decentralization, launched in 2014 when the Government of Ukraine approved an action plan to implement a new approach to local self-government in April 2014 (Portal “Decentralisation”, 2022). The intention of decentralization was to give local administrations, known as the amalgamated territorial hromada (obiednana terytorialna gromada), the resources and authority they needed to foster local economic development. Land was often the most valuable resource that rural authorities could utilize. Since 2018, all communities received land in communal ownership to be allocated and managed by newly created local self-governing bodies of the hromadas (Office of the President of Ukraine,

2020).⁴ As of 2020, hromadas had received over 1.7 million hectares of land, according to data from the State Geocadastre (State Geocadastre, 2020).

This decentralization created the institutional conditions for more transparency for the use of public land at the local level. In 2013, auctions for land leases of state and communal land were introduced, which facilitated the legal use of public land and led to increased revenues for local administrations. Overall, the land transfer to local authorities was deemed successful and during the war, the hromadas have played a critical role in supporting Ukraine’s war efforts (Darkovich, Savisko and Rabinovych, 2023). Some reports persist of local officials profiting from corrupt arrangements in which they exchanged the use of public land for private payments (Myklashchuk, 2019).

New laws and institutions for a Ukrainian land market, 2020

Between 2018 and 2020, the creation of land markets was pushed forward under the leadership of Ukraine’s Ministry of Agrarian Policy and Food, collaborating with teams of technical specialists funded by the World Bank. On 31 March 2020, the Verkhovna Rada (Ukraine’s parliament) adopted the Law 552-IX, which provided for gradual phasing in of the right to transfer ownership (Ukraine, 2020).

Law 552-IX stipulated that, with effect from 1 July 2021, citizens of Ukraine received the right to buy and sell land as individuals; companies were still barred from buying land during the phase-in period between 2021 and 2024. To address the risk of land concentration, the amount of land held

³ See Roshchina (2021) for a report on raids in Ukraine.

⁴ A decree initiated the transfer of state land from state into the municipal property of amalgamated communities. The decentralization reforms were launched by President Volodymyr Zelensky with Decree No. 449/2020 (Office of the President of Ukraine, 2020).



by one individual was limited to 100 hectares during the transition period from 2021 to 2024, and thereafter – to 10 000 hectares (Law 552-IX, 2020, Part X, paragraph 15; transitory provisions, para 15; Ukraine, 2020).

The limit of 100 hectares for individuals was the outcome of a political compromise between the proponents of industrial farms and constituencies concerned about the future of small farms. A 100-hectare farm is many times larger than most of Western Europe's farms, but far smaller than the mega-farms that formed in other post-Soviet countries, especially in the Russian Federation (Wengle, 2021).

The second phase of land reform was implemented on 1 January 2024: along with natural persons, legal entities created and registered under Ukrainian law, whose shareholders are citizens of Ukraine would now be able to buy land. Companies are allowed to purchase land up to 10 000 hectares. This second phase of market opening is extremely consequential, both for current landowners and for Ukraine's post-war reconstruction.

Renewing costly agricultural machinery and infrastructure will be capital intensive, necessitating a long pay-back period; the longer time horizon provided by land ownership is therefore considered by many to be a critical incentive for investments. Foreign individuals and companies are still not permitted to own land, not even as minority shareholders in Ukrainian companies.⁵

Importantly, the 2020 law also stipulated that, should land sales and land ownership by foreigners be considered, legislative changes would be subject to an affirmative vote in a nation-wide referendum. Finally, the new law explicitly reserved the land currently in state and municipal land for public ownership; that is, it cannot be sold to private owners.

It is important to note that the creation of land laws was a legally and technically complex process that entailed several years of planning: significant preparatory work was carried out between 2014 and 2020 before the passage of Law 552-IX. Creating the land markets required a digital cadastral system to be set up and ownership registration of millions of land plots.

Ukraine's land administration system is based on two separate institutions – a modern digital cadastre based on recent orthophoto maps and a legal land registry – which are integrated in the national spatial data infrastructure of the whole territory of Ukraine.⁶

The legal land records are paper-based, digitized and backed-up by the digital land administration information systems. The registration of ownership claims in the State Land Cadastre required the "real-world" verification of geo-tagged fields, a painstaking and costly process. It also necessitated the formalization of land claims that had been informally and illegally used for decades.

The process of registering formal ownership was a gradual process that continued during the years leading up to the passage of the law.

By July 2021, when land became available for sale, an estimated 6.9 million owners of land plots were registered in the Ukrainian State Land Cadastre. As of February 2021, Ukraine's Land Cadastre had registered 75 percent of agricultural land, adding up to 32.1 million hectares or 15.1 million land plots (KSE, 2021). The process of formalizing ownership claims was complicated by the advanced age of many current landowners: according to State Cadastre data, the average age of the current owner of a land share is 60 years, and about a quarter are older than 70.

More than 1.4 million allotment owners have died since they originally received land in the nineties, nearly 20 percent of rural citizens (Dankevych and Lukomaska, 2018).

⁵ Banks and other financial institutions are not able to buy land, but they are able to count land as collateral for loans. Should banks and other financial institutions receive land as part of a loan default settlement, they are required to sell it at auction within two years; Law 552-IX (Ukraine, 2020).

⁶ The full name of these agencies are the State Service of Ukraine for Geodesy, Cartography and Cadastre, also known as StateGeoCadastre, and the Department of State Registration of Real Property Rights and Encumbrances at the Ministry of Justice.



4. THE POLITICS OF UKRAINIAN LAND REFORMS BEFORE THE WAR

Although Law 552-IX won approval in the Verkhovna Rada, it remained controversial: on the day the law was passed, farm organizations and opposition parties protested in front of the Verkhovna Rada in Kyiv and in other cities. Both before and after the passage of the law, the Government, agroholdings, and civil society organizations representing family farms continued to disagree on some aspects of land reforms and ultimately on how to best secure a thriving future for Ukrainian agriculture. The main stakeholders and their positions are summarized in Annex 2.

Proponents of land reforms

The governments led by Petro Poroshenko and Volodymyr Zelensky and their respective agricultural ministers were largely in favour of land reforms, as were many Ukrainian economists. Several international organizations have strongly favoured reforms; the World Bank and IMF, in particular, have long encouraged the Government of Ukraine to proceed with the legalization of land sales. In 2019, the IMF made it a condition for the refinancing of the country's debt. Ukraine has been one of the IMF's largest debtors, and so its views ended up holding considerable sway over Ukrainian policymakers.

Proponents of a liberalized land market have argued that permitting the unrestricted purchase and sale of land is broadly beneficial for the Ukrainian economy (Deininger, Nizalov and Nivyeviskyi, 2017). In the words of two proponents, the lack of land markets amounted to "dysfunctional land relations" that "have led to inefficient land allocation and, as a result, substantial losses in potential GDP growth" (Kvartiuik and Herzefeld, 2019).⁷ The Government of Ukraine and the local authorities hope that the land market will lead to the creation of more rural employment and boost tax revenues. The IMF has predicted that the liberalization of land laws would add 6 to 12 percent to Ukraine's GDP over the next decade, depending on the progress of reforms that are implemented in the next few years; see

Table 1 (Ari and Pula, 2021). This is the case, proponents argue, because i) larger land parcels allow for more efficient farming, ii) land owners will receive higher prices for land, and iii) "excessive land fragmentation and small average farm size" may be handicaps for the future of Ukrainian agricultural production (Gorgan and Hartvigsen, 2022).⁸

They disagree with land reform sceptics on one of their central claims, namely that land markets will harm small farms. Proponents predict that regularization of land sales and competitive land markets will lead to a more formal and appropriate valuation of land assets, which in turn will benefit small and large farms. What is more, the legalization of land claims will provide access to capital markets to many more Ukrainian farms. That means even smaller farms will have the opportunity to diversify production and grow into value-adding sectors.

Table 1. IMF predictions on economic impact of land reform

	Land price increase (predicted)	GDP impact*	Scenario name; IMF
Closed markets	6.7 %	0 %	Backsliding scenario
Closed to foreigners	15.05 %	0.6 %	Partial reform scenario
Open to foreigners	19.43 %	1.26 %	Full reform scenario

*Impact calculated for a period of 10 years, 2021-2031, and annualized.

Source: Ari, A. and Pula, G. 2021. *Assessing the Macroeconomic Impact of Structural Reforms in Ukraine*. IMF Working Paper, WP/21/100. Washington DC. <https://www.imf.org/en/Publications/WP/Issues/2021/04/23/Assessing-the-Macroeconomic-Impact-of-Structural-Reforms-in-Ukraine-50345>

⁷ This paper published by the Leibniz Institute of Agricultural Development in Transition Economies (IAMO), a leading research institute on agriculture in transitions.

⁸ Note though that, according to Gorgan and Hartvigsen (2022), Ukraine actually has a lower level of fragmentation than other East European countries.



The EU has encouraged land reforms and more transparency for land use. The Association Agreement adopted in 2014, a milestone in the relation between the EU and Ukraine, did not mention Ukraine's land market. The European Neighbourhood Policy, adopted in conjunction with the Association Agreement, stated that land reform was one of its priorities, but it is not identified as a condition for further deepening of EU-Ukraine ties (Ragonnaud, 2014).⁹

A 2022 European Commission report on implementation of the Association Agreement again broached Ukraine's 2021 land market liberalization and the creation of the Partial Credit Guarantee Fund: it encouraged reforms and portraying them as a priority of Zelensky's government (European Commission, 2022). The European Commission clearly wants to see the Ukrainian authorities address the shadow economy and clarify property relations as a key aspect of a foundational market institution. At the same time, Brussels has not made any particular modality of land reforms an explicit condition for closer ties with the EU, and generally, the *Acquis Communautaire* has not tackled the system of land governance and land market regulations of EU member countries.

Public opinion and opposition to land markets and foreign ownership

The Government and reform proponents had to fight an uphill battle to gain broad political support for the reforms. Many studies have shown that a significant proportion of Ukrainian citizens have salient, long-held concerns about land speculation and the accumulation of large tracts of fertile lands in the hands of agroholdings, and a vocal civil society movement advocated for the rights of family farms and rural households. A 2021 public opinion survey by the Kyiv International Institute of Sociology, for example, found that 75 percent of all respondents said they would continue to support a ban on the sale of agricultural land, and 84 percent reported that they do not support the sale of agricultural land to foreigners (Hrushetskyi, 2021).

These are long-standing concerns, and earlier surveys had found similar sentiments – a survey administered by the United States Agency for International Development (USAID) in 2015 found that 63 percent of respondents did not approve of the lifting of the moratorium on land sale (Yaremko, Lukomska and Nizalov, 2017).

Fears about land consolidation and foreign ownership were mobilized and fuelled by political parties who opposed the Zelensky Government and utilized the resonant issue of land ownership to gain popular support from rural voters (Mamonova *et al.* 2020). Interest groups who benefited from low land prices also lobbied for the renewal of the moratorium (Sheyko, 2015). Although most Ukrainian economists are in favour of land markets, they have been criticized by academic colleagues at the National Academy of Agricultural Sciences (Gagaljuk, Valentinov and Yefimenko, 2020).

Ukrainian public opinion has evolved and changed over time and many Ukrainian rural citizens hold pragmatic views on the future of land markets. A large share of rural citizens holding land shares have been willing to lease land to agroholdings. A 2021 survey found that 27 percent of respondents lease land officially, and another 10 percent informally (Democracy Initiative, 2021). A majority of Ukrainians are also willing to sell land once markets develop and they can expect fair returns; the same survey found that 61 percent of respondents believe that "a person who owns land should have the right to sell it" (Democracy Initiative, 2021).

⁹ The EU's balanced position was also expressed in a 2018 decision by the European Court of Human Rights (ECHR), in a ruling of a case brought by two Ukrainian citizens that held that moratorium on sale of agricultural land violated their property rights of landowners. The court issued a ruling in favour of the applicants, arguing that the Ukrainian "state had not struck a fair balance between the general interests of the community and the applicants' property rights." Yet, the court also expressed awareness of the motivations of the moratorium, as a "measure prevented the concentration of land in a few hands, stopped rural people becoming poorer," and concluded that its ruling "did not mean Ukraine had immediately to introduce an unrestricted market in agricultural land". (Zelenchuk and Tsytsyura vs. Ukraine, 2018).



While some citizens worry that agrohholdings extract the maximum resources with little regard for soil degradation and other environmental costs, others place more value on the investments and jobs they bring to the countryside (Sarna, 2014). In many rural regions, agrohholdings are the only employers. Ukraine's rural demography is also contributing to a pragmatic view of land reforms.

Elderly rural residents with waning financial and human resources to cultivate the land they own, and children who live in cities, report that they intend to sell their land once the moratorium is lifted in order to provide a monetary inheritance for the next generation (Mamonova, 2022).

Concern over the viability of small farms after the establishment of land markets

The most vocal criticism of the ongoing liberalization of the land market relates to the impact of ongoing land reforms on the viability of family farms and rural households (Public Farmer Forum, 2022). A central aspect of these concerns relates to the economic means of smaller private farms, compared to the financial resources of agrohholdings. Primarily, the lifting of the moratorium might remove their ability to rent land at low prices. Instead, they would be forced to either go into debt, or produce less after having to invest their operating capital to buy land.

Although the Government of Ukraine has argued that the smallholder sector would be able to generate enough income to purchase land and has put in place targeted support measures, the Association of Farmers and Private Landowners (*Asotsiatsiia fermeriv ta privatnikh zemlevlanskiv Ukrainu*, AFZU) has long argued that family farmers are not financially strong enough to buy land they have rented in the past (Association of Farmers and Private Landowners of Ukraine, 2023).

They also hold that the few financial support programmes for family farmers and rural households were insufficient and also were often curtailed or cancelled during the war.

The political and institutional framework for land rights in Ukraine contains an explicit acknowledgment that land reforms should form the basis for "diverse forms of economic organizations," along with the "efficient use and protection of the land" (Csaki and Lerman, 1997).¹⁰

Despite this rhetorical commitment, critics of Ukraine's 2020 legal changes have argued that the interests of family farms and rural households have been overlooked by the Government of Ukraine for decades.

They fear that opening land markets will result in further and increasing concentration of Ukrainian farmlands. Both these points relate to the Government of Ukraine's claim that large farms always operate more efficiently, which reform critics regard as a flawed reasoning of efficiency that is prevalent among policymakers.

These have been central concerns of the Association of Farmers and Private Landowners as well as of, for example, the participants of the Public Forum on Small Peasant Farms and Farming Households in Wartime and Post-War Reconstruction of Ukraine, which convened in November 2022 (Public Farmer Forum, 2022). The OECD Producer Support Estimates indeed suggests that the Government of Ukraine's farm subsidies are quite low (OECD, 2023).

According to the Resolution adopted by the participants of the Public Forum on Small Peasant Farms and Farming Households, the current land reforms are the continuation of policies that have disproportionately benefited agrohholdings (Public Farmer Forum, 2022). They fear that opening land markets will result in further and increasing concentration of Ukrainian farmlands.

¹⁰ This was explicitly noted in a 1993 Amendment of the 1992 Land Law: "Land reform is a component of the economic reform implemented in Ukraine as part of the transition of the economy to market relations. The task of this reform is redistribution of land and its transfer to private and collective ownership, as well as usership by enterprises, with the purpose of creating equal conditions for the development of different forms of farming, emergence of diverse forms of economic organization, and efficient use and protection of land." (Csaki and Lerman, 1997: 14).



Although Law 552-IX stipulated a gradual phase-in period and gives Ukrainian private citizens the ability to buy land first, a number of legal and informal arrangements (discussed in more detail in sections 7 and 8 below) will de facto allow current corporate leaseholders to acquire the land they currently farm. As for foreign ownership: although the current law does not allow foreign ownership, Mousseau and Devillers (2023) highlight the risk that the Government of Ukraine will lack the ability and will to trace ownership hidden behind shell companies, nor will they have the means to enforce legal rules regulating land markets if owners are found to lack Ukrainian citizenship status.

Although large agricultural enterprises do achieve higher yields, they do so by relying on the intensive use of synthetic inputs, fossil fuels and large-scale mono-crop production (Mamonova, 2015). It is widely recognized, in Ukraine as elsewhere, that the costs and risks to the rural environment and rural communities – including the loss of biodiversity, soil degradation, strain on water resources and high carbon emissions – are not accounted for in the arguments in favour of large-scale farming (Lyson, 2004).

Many studies on the scale of agricultural production have also pointed out that family farms and rural households contribute to food security, and foster resilient rural social networks and capital (Visser *et al.*, 2015; Mamonova, 2018).

These studies underscore that the Government of Ukraine has failed to take into account the hidden costs of large corporate agrohholdings, nor given enough support to small farms' that sustainably feed the country's citizens and keep villages alive. These concerns were salient before the war, and have in many ways been exacerbated and emphasized by the experience of the war.

5. WAR RELATED DESTRUCTION & LAND MARKETS

Since 2022, the Ukrainian agriculture sector was strongly affected, with farms and infrastructure being purposively harmed (Wengle and Dankevych, 2022; Mamonova, Wengle and Dankevych, 2023). Many fields in formerly occupied territories and along the current frontline are littered with mines and harmful substances released during the fighting.

Fuel and energy prices have been high due to the war, making farming, harvesting and transport more expensive. Some of the costliest damage resulted from the destruction of infrastructure throughout much of Ukraine, in particular the targeting of grain terminals at Ukraine's sea ports, of grain storage elevators and of the Kakhovka Dam (Welsh, Bermudez, Jun and Dodd, 2022; FAO, 2022b). The Center for Food and Land Use Research at the Kyiv School of Economics assesses the war damage as of April 2023 one year into the war, as follows:

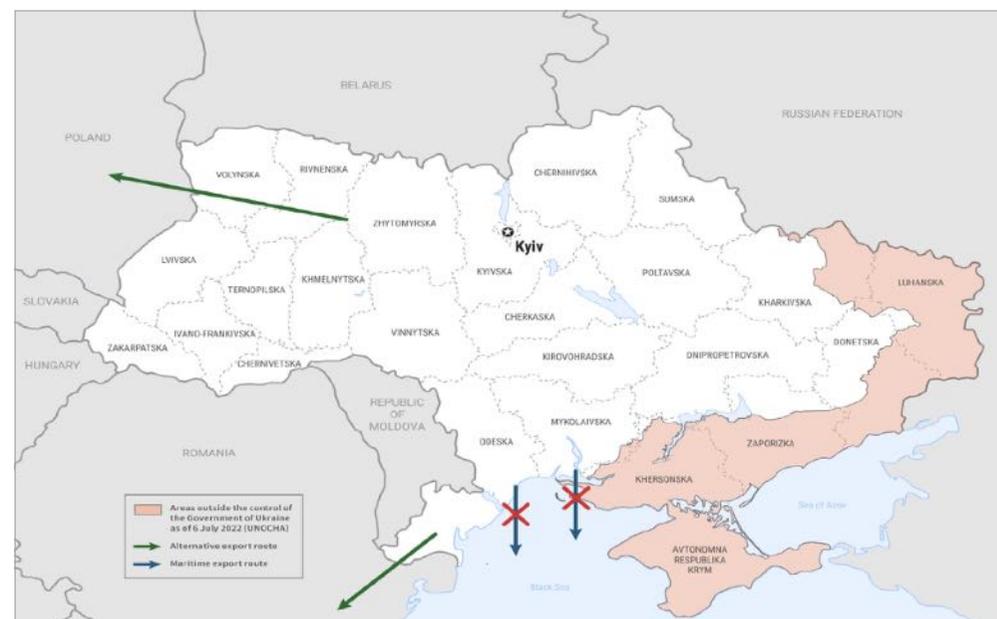
"The impact of Ukraine's current situation on the agricultural sector after one year of the full-scale conflict is immense. Direct damages amount to \$8.7 billion [...] and indirect losses, including lower production of crops and livestock, as well as logistics disruptions and higher production costs, amount to additional \$31.5 billion." (KSE, 2023a)

One of the most harmful aspects of the war for Ukrainian farmers was the Russian Federation naval blockade of the Black Sea, which prevented Ukrainian grain from reaching world markets for the first half of 2022 (Wengle and Dankevych, 2022). For one year, between July 2022 and 2023, the naval blockade was temporarily and partially eased, pursuant to an agreement reached in July of 2022 between the warring parties, the United Nations and Türkiye – known as the Black Sea Grain Initiative – which created the Grain Corridor. In March and May 2023, the Russian Federation had agreed to a renewal of 2 months – a woefully short period for Ukrainian producers planning their 2023 growing season, and in July 2023, the Russian Federation suspended cooperation in the Grain Corridor.

Although an important diplomatic achievement, this was a politically tenuous stop-gap measure that collapsed in July 2023 (Wengle and Dankevych, 2022). Ukrainian farmers have sought alternative export routes to bring grain to the European Union via rail and road (see Map 1), but there are several logistical challenges and only a small share of Ukraine's 2022 harvest was exported in this way.

Despite the temporary relief provided by the Grain Corridor, farm gate prices for Ukrainian grains and oilseeds have been low and farmers sustained significant losses due to challenges in reaching global markets (Mamonova, Wengle, Dankevych, 2023).

Map 1: Export Routes, Ukrainian Grain, 2022



FAO. 2022. Ukraine: Note on the impact of the war on food security in Ukraine, 20 July 2022. Rome. <https://doi.org/10.4060/cc1025en>



Because of these challenges, a very significant share of the area under cultivation in 2022 was not harvested, such that the war led to a decline in yields and overall production and a smaller area under cultivation in 2023 (FAO, 2022b). In the words of a Ukrainian stakeholder, Andrei Vadatursky, Chief Executive Officer of Nibulon, one of Ukraine's most successful agricultural companies, the war affected all aspects of the company's operations:

"The war has seriously disrupted our business operations. Large areas of agricultural production as well as grain elevator complexes and river terminals are now in occupied territories, and we have approximately \$92 million in fixed assets that are intact but inaccessible in these areas. Additionally, we have not been able to use our shipping fleet at all because of the blockage of seaports and the passage of rivers through the occupied territories. We are, therefore, actively re-routing our exports via land routes, but at a much higher cost. This caused our exports to drop significantly. From Jan. 1 to Nov. 15, 2022, Nibulon exported 1.7 million tonnes of grain, a 164 percent decrease from the same period in 2021." (quoted in Donley, 2023).

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6. THE POLITICS OF LAND MARKETS AND UKRAINE'S POST-WAR RECOVERY

The Government of Ukraine is counting on agriculture becoming a central pillar of the post-war economy. To achieve this, the Government needs to chart a path forward that takes into account how the war has affected all Ukrainian farmers, including the agroholdings and small family farms and landowners.

On the one hand, Ukraine needs more large-scale capital investment in agriculture for the country's post-war rural recovery than ever before. Proponents of land reforms are therefore urging Ukrainian policymakers to proceed with land reforms as stipulated in Law 552-IX passed in 2020; this opinion was voiced, for example, by Mykola Solskyi, Minister of Agrarian Policy and Food, in December 2023 (Agroportal, 2023). Proponents argue that admitting corporate owners is indispensable to lengthening time horizons so as to facilitate investments with longer pay-back periods. On the other hand, it is also important to keep in mind that the war has critically altered the conditions under which land reform will take place (FAO, 2022b).¹¹

The main arguments by proponents of land reforms and by groups calling for the suspension of ongoing land reforms are summarized in Annex 3. In order to chart that path forward, a series of critical questions need to be decided in the months ahead, with answers that will in large measure shape the future of Ukrainian agriculture. Some of the most important and fundamental questions currently being debated by a variety of stakeholders are:

¹¹ FAO cautions that "the social and spatial repercussions of violence, dislocation, destruction of property, battlefield victory and loss, and food insecurity, together with the breakdown of administrative, enforcement, and other property-related institutions and norms, significantly alter ongoing relationships between people(s), land uses, production systems, and population patterns." (FAO, 2022a).



Should private legal entities, that is companies, be admitted to the land market as of 1 January 1 2024, as the 2020 reforms had envisaged?

Or should the admission of companies be further delayed, to give Ukrainian individuals more time to buy and sell land?

Should foreign owners be permitted to buy land in Ukraine?

Extant laws require a referendum for this legal change to pass; can or should this referendum be held during a war?

7. ARGUMENTS IN FAVOUR OF THE ADMISSION OF FOREIGN OWNERS

Proponents of land reforms have made several arguments in favour of proceeding with the gradual creation of land markets as planned – that is, to allow for land sales to legal entities in 2024, and allow foreign ownership of land in the near future.

Proponents stress three key reasons for proceeding with land reforms:

1. investment needs of the agriculture sector;
2. the need to formalize and legalize de facto relationships of ownership and control; and
3. the successful implementation of reforms despite the war-related disruptions.

They also stress that several programmes – such as subsidized, low-interest lines of credit – act as safeguards for small farms. As before the war, the main proponents are the Government, economists affiliated with the KSE, along with international advisors and representatives of agribusiness (Kravchenko, 2023; Martin, 2022; Kozachenko, 2022, 2023).

1. Investment needs of Ukrainian agriculture

Proponents, such as the Ukrainian Ministry of Agrarian Policy and Food and experts at the KSE, point out that the need for investment – already

significant before the war – has increased by many magnitudes (KSE Agrocenter, 2023). Investments are needed not only to repair the damage brought by the war, but also to develop Ukraine's domestic processing and value-added production, which in turn helps the Ukrainian economy create employment and tax revenues. Rather than exporting grain, food processing facilities could mill flour and processed foods, or serve as feed to help Ukraine build its livestock sector (Martyshch, Neyter & Piddubnyi, 2023). The Government of Ukraine has argued that only corporate owners can bring the capital that is needed to de-mine fields, repair damaged transport, storage and export infrastructure and rebuild the sector for the future.

Ukraine's agricultural sector was already in need of investment before the war. The transport infrastructure, in particular railways, inland waterways, and seaports, had struggled to serve the needs of Ukraine's rapidly growing agricultural sector over the last twenty years.¹²

With the additional burden of war-related damages, the need for investments have grown in scale and urgency. These losses affect a broad range of equipment and infrastructure, from tractors to loading docks at Ukraine's ports. According to researchers at the Kyiv School of Economics, more than 84 000 units of machinery and equipment have been completely or partially destroyed due to the war, with an estimated value of USD 2.9 billion (KSE Agrocenter, 2023).

Storage capacities for grain with a total capacity of 9.4 million tons have been damaged or destroyed. The value of lost livestock resources is estimated at approximately USD 362 million.

¹² The 1990s had been a period of under-investment in nearly all aspects of the country's infrastructure, which by the 2000s compounded the need for large-scale public investment in initiatives such as expanding port facilities, dredging rivers, and updating the Ukrainian national railways wagons. By the mid-2010s, the Government of Ukraine began to actively solicit funding from private and international investors. Domestic agribusiness was increasingly involved in rebuilding infrastructure, as were foreign investors, such as the Chinese government and Chinese state-owned companies.



There is also a need for new facilities, to increase Ukraine's export capacity via road and rail infrastructure and make it less vulnerable to the Russian Federation's attempts to withhold grain from global markets via the Black Sea naval blockade. This is a widely held view and expressed, for example, by Mykola Solsky, Ukrainian Minister of Agrarian Policy (Izvoschikova and Zheleznyak, 2023). Roman Neyter (2022), an economist from the KSE's Agrocenter, makes clear how proceeding with land reforms will facilitate future investments and the growth of Ukrainian agriculture:

"For a better understanding: no one will install an irrigation system with an average cost of USD 3000/hectare, if his lease expires in a few years and the land along with the infrastructure will de facto be taken away. If this land is private property, long-term investments make sense. And this is fundamentally important for the further growth of the agricultural sector". (Neyter, 2022).

The All-Ukrainian Agricultural Council estimates that it will take at least 5 years to restore individual subsectors of the agro-sector and some prominent voices are calling for a Marshall Plan for Ukraine that would invest in rebuilding agriculture (Naumov, 2022). Investments for rebuilding agricultural assets are needed primarily in the following areas:

- The restoration of critical transport infrastructure facilities, such as certain railway, road, and inland waterways.
- The acceleration of the demining of agricultural lands.
- The expansion of terminals for agricultural products near the state border of Ukraine with EU countries.
- Further investment in the processing of agricultural raw materials.

2. Legalization of de facto ownership claims

A second argument in favour of proceeding with land markets as planned is that corporate entities have de facto already been securing ownership stakes to very sizable land assets before January 2024, despite still being

legally excluded from land markets. The main way agroholdings and other leaseholders have secured ownership rights is through legislation, having lobbied for the inclusion of the pre-emptive right provisions (Reicher and Mousseau, 2021).

The legal provisions on pre-emption hold that current lease holders have the priority right to buy land once it is decided to be put on the market, and that these rights can also be ceded to a third party (Ministry of Justice of Ukraine, 2021; Martynov, 2021). Another way in which current lease holders have secured future rights is by formally registering land to individuals who are either employees, or "friendly" individuals who have informally agreed to sell to the companies after the new law takes effect (Rybnitska and Bogdan, 2021; Dankevych, 2024). Halting reforms now would thus not prevent de facto corporate control. Instead, it would likely perpetuate the shadow economy.

Questions related to foreign ownership go beyond the stipulations of Law 552-IX passed in 2020, but are currently debated in the context of the future of Ukrainian farms. Here too, several arguments have been made in favour of moving ahead with the inclusion of foreign owners. Proponents of land markets have argued in favour of allowing foreign ownership, because the financial means of foreign owners surpass those of even the wealthier Ukrainian agroholdings, which would lead to more abundant capital inflows to the Ukrainian countryside (KSE Agrocenter, 2023). Secondly, foreign agricultural operators would bring technology and operational skills that Ukrainian companies do not yet possess. Third, perhaps most importantly, foreign companies are already highly involved in Ukrainian agriculture: more than 3.3 million hectares are farmed by companies with foreign investors via long-term leases (Martin 2022). Together with the pre-emptive rights mechanisms and the planned transaction procedures, this represents a form of quasi ownership rights. Allowing foreign actors to formalize ownership stakes would give foreign companies and individuals a vested interest in defending their property rights in Ukraine.



3. Land markets are functioning despite the war

Lastly, there is strong evidence that Ukraine's land market has come into existence as planned even under such difficult conditions. Ukrainian citizens have been taking advantage of the new opportunities to sell and buy land, despite the disruptions, damages and risks related to the war.

Although the war interrupted land sales in 2022, since the land registry re-opened 105 000 transactions of land sales were recorded in 2022, adding to the 102 000 transactions recorded before the war, according to Ukraine's State Land Cadastre.

Land sales were greatly aided by the introduction of a platform for electronic auctions – the Prozorro system – that has facilitated transparent and competitive land sales, an important step in the ongoing efforts to defeat Ukraine's shadow economy for land sales and leases (Kravchenko, 2023; Ministry of Agrarian Policy and Food of Ukraine, 2023).

As of 11 September 2023, the number of registered transactions was 205 043, according to Ukraine's State Land Cadastre. Before the war, Kharkiv Oblast was the leader in land sales, where land markets have been particularly active, followed by Kirovohrad Oblast, followed by Cherkasy, Kyiv, and Chernihiv Oblasts. In 2023, the land markets were most active in Vinnytsia, Lviv, Khmelnytskyi, Ternopil and Sumy regions (State Geo Cadastre, 2023).

Despite the war, the sale price of Ukrainian agricultural land has increased and "demand, despite everything, continues to grow," in the words of Ukraine's Deputy Minister of Agrarian Policy and Food (Bashlyk, 2023). During the first year of the land markets operation, between July 2021 and 2022, prices on Ukrainian land markets increased by 30 percent (Pepel'ya, 2022).¹³ At the same time, land prices vary markedly across the country: in L'viv Oblast, the average price for 1 hectare was nearly seven times larger than in Kherson Oblast, two regions that are distinguished by their distance and proximity to the war's frontlines, UAH 163 000 vs. UAH 23 000 per hectare respectively as of May 2023 (Bashlyk, 2023).

Although many factors influence land prices, the war's destruction and uncertainty most likely contributed to depressing Kherson's land values.

8. NEW CONCERNS ABOUT THE FUTURE OF UKRAINIAN LAND MARKETS

In addition to the concerns raised before the war by a diverse group of farm and civil society representatives – concerns which have, perhaps unsurprisingly, remain largely unaddressed since the passage of the law – the war has brought new and urgent challenges. FAO has cautioned that "providing secure access to land [...] is particularly complex in situations following violent conflict" (FAO, 2022b).

The Ukrainian Rural Development Network has coordinated civil society efforts to draw attention to long-standing and emerging risks to Ukraine's small farms. Three risks are at the core of these discussion: that the displacement may exclude some farmers from participating in land market transactions; legal uncertainty in occupied territory; and the role small farms have played to secure Ukraine's food security during the war.

1. Internally displaced persons, refugees and farmers at the frontlines

Internal and external displacement represent an important disruption to Ukrainian agriculture, and a potential threat to the equitable development of land markets. According to the UN's most recent statistics, 6.2 million refugees have fled from Ukraine as of September 2023 (UNHCR, 2023).¹⁴

¹³ According to Kushneryk (2022), average value of one hectare of farmland has risen in value in Ukrainian hryvnias (UHA) from UHA 41 700 to UHA 57 200 between January and December 2022, although in dollar terms it declined, due to a weakening UHA-dollar exchange rate, from USD 1540 to USD 1460.



There is no official data on the share of rural and urban refugees; though it is likely that refugees and internally displaced persons were more likely to have left urban areas (Chebil, 2022). FAO and other organizations have cautioned that displaced rural citizens may be unable to manage farmland and participate in market transactions (FAO 2022b; Public Farmer Forum, 2022).

Many Ukrainian farmers are also fighting at the front: an estimated nine out of ten soldiers at the front were originally from rural areas, many of them own land shares (Vedernikova, 2023). Away from their land and villages, these soldiers will have fewer opportunities to participate in land auctions and register land transactions. Viktor Goncharenko, president of the Association of Farmers and Private Landowners of Ukraine, for example, has drawn attention to this fact: many rural Ukrainians "swapped the steering wheel of a tractor for a rifle," – and therefore "have neither the time nor the resources to participate in the land market on equal terms with [agro]holdings" (Ivanovo, 2023, Peoples' Food Sovereignty n.d.).

In the early months of the war, several instances were reported of private family farmers being unable to renew leases because they were not physically present to make these agreements with landowners, while agroholdings and larger farms took advantage of this situation (Mamonova, 2022).¹⁵ This was so common, in fact, that the Government of Ukraine adopted an amendment to the Land Code in April 2022 to automatically extend existing leases, relieving absent leaseholders of the burden of having to formally extend their lease.

2. Occupied territories

Nearly one fifth of Ukraine's territory remains occupied by Russian Federation armed forces as of the summer of 2023. This includes very large swathes of valuable farmland and it was feared that land titles would be transferred during the occupation.

There have been several reports of land seizures since February 2022. One Russian Federation company, Agrokomplex, has seized hundreds of thousands of hectares of farmland in occupied territories from several Ukrainian companies. HarvEast, Nibulon and Agroton all report having lost large tracts of lands to Russian Federation companies that now have de facto control of the farmland (MacDonald and Pyrozok, 2022).

It is currently impossible to assess the extent of land seizures and the current legal status of farmland in occupied territories. That said, the experience of the Crimean Peninsula, annexed by the Russian Federation in 2014, may provide the basis for a prediction of the challenges ahead for Ukrainian farmers, if the territory that is currently occupied should remain under the Russian Federation control for some time.

After the annexation, farming in Crimea was disrupted in myriad ways, including by legal challenges to Ukrainians owning land (MacFarquhar, 2014). A the Russian Federation Presidential Decree, No. 201, adopted in March 2020, decreed that Crimea was a territory of the Russian Federation and that no foreign individuals were permitted to own land.

Citizens of Crimea were then given a year, until March 2021, to become Russian Federation citizens. If they failed to apply for Russian Federation citizenship, they technically had the option to give up the land plot in exchange for a nominal monetary reward. Ukrainian citizens of Crimea who opted for neither of these paths (neither Russian Federation citizenship, nor giving up their land), were vulnerable to having their land compulsorily seized in legal cases brought against them (Ukrainian Helsinki Human Rights Union, 2021).

¹⁴ As of spring 2023, an estimated 23 percent have returned, either for temporary stays or to return to their homes, since their initial departure. In addition to refugees, the United Nations also reported an estimated 5.9 million internally displaced persons (UN, 2023).

¹⁵ There is no systematic data collection on the ways in which farmers' rights are affected, when they serve on Ukraine's territorial defence force, though [author] has gathered ethnographic data in interviews with farmers and with representatives of small farm organizations for a related research project (Mamonova, 2022).



At the time this publication goes into print, there is a great deal of uncertainty about how the Russian Federation circumstances will affect future land tenure. However, it is very likely that, should the Russian Federation armed forces continue to wield de facto control, the legal status of Ukrainian farmland ownership will be extremely vulnerable to Presidential Decrees issued in Moscow.

3. Small farms during the war

Land market sceptics have expressed concerns that small farms may be de facto sidelined by the Government of Ukraine's efforts to attract investment to rebuild agricultural infrastructure (Mamonova, Borodina and Kuns 2023). While some infrastructure benefits all farms, other infrastructure, such as export terminals, tends to be used disproportionately by export-oriented agribusiness.

They also point out that some corporate farms are taking steps to secure land ownership in the future; in addition to the pre-emptive purchase rights, these steps include informal arrangements that are not open to private individuals and small farms (Reicher and Mousseau, 2021). Meanwhile, though, private family farmers and rural households have proven to be more resilient at a time of extreme instability.

Unlike agroholdings, which are crippled by the high costs of inputs and disrupted export routes, small farmers do not depend on international trade and high-cost inputs and so are continuing to cultivate fields and produce food for their families, local communities, the Ukrainian army and the population (Mamonova, 2022).

Local production, distribution and consumption have been carried out through informal networks and involve reciprocity and mutual help, which increase the ability of households and communities to adapt and transform in the face of adverse events (Mamonova, 2022; Mamonova, Borodina and Kuns, 2023).

Many Ukrainians are recognizing the contribution and value of smaller private farms and are advocating that their needs should be prioritized in the post-war reconstruction programmes. In late 2022, representatives of Ukrainian family farms and rural households, civil society organizations, the academic community and representatives of FAO and USAID held a series of meetings in Kyiv to develop policy recommendations and advocate for the vital role of small-scale agricultural producers.¹⁶

In December of 2022, a coalition of small farm supporters called on the Government of Ukraine to suspend the 2020 land reform law and proposed concrete measures that would help small farmers prepare for the opening of the land market.

The demands made by the coalition are premised on the insistence that land reforms should be implemented in accordance with the interests of farmers and small producers and a series of respected UN and EU action plans and guidelines, including the EU Green Deal and the FAO Principles for Responsible Investment in Agriculture and Food Systems.¹⁷

Published by the Ukrainian Rural Development Network, the call includes the following propositions:

1. [... Forum participants] *State that family farming in Ukraine can contribute significantly to overcoming the war-caused interrelated crisis not only in agriculture but in the economy, social, environmental, and humanitarian spheres.*

¹⁶ For a report on the proceedings of the meeting, see National Academy of Science of Ukraine (2023).

¹⁷ The UN guidelines and policy documents are: UN Global Action Plan within the framework of the Decade of Family Farming (2019-2028); the UN Declaration "On the Rights of Peasants and People Working in Rural Areas" (2018); the Principles for Responsible Investment in Agriculture and Food Systems (CFS-FAO 2014); the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (CFS-FAO 2012).



3. [... Forum participants ask to] strengthen the dialogue between the Ukrainian authorities of all the levels on the one hand and the small-scale agricultural producers on the other.

5. [... Forum participants] Address the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine [and urge them] to *alter the pre-war agricultural model of Ukraine* focused on the raw material export, depletion of soils and water resources, exsanguination of the countryside lifestyle *into the model that is based on family farming and the principles of sustainable development.* [...]" (Ukrainian Rural Development Network, 2022).

9. CONCLUSION: DEMOCRACY AND THE FUTURE OF UKRAINE

Agriculture is widely anticipated to be one of the fundamental pillars that will underpin Ukraine's post-war economic recovery. In the context of the war, but with a view to the country's future recovery, Ukraine is currently considering the potential benefits of opening its agricultural land market to foreign investors. Proponents hope that a further opening of land markets would increase land prices and bring valuable expertise and technologies to the country.

The reasoning of the proponents of land reforms includes the potential political role that foreign investors might play: proponents hope that this group – globally connected, but locally invested – would seek to protect their assets and advocate for Ukraine's post-war reconstruction.

However, whereas proponents of private land markets see the admission of foreign investors as a motor for economic recovery and for international support, many Ukrainian citizens remain concerned about what this might mean for small farms and the social and ecological future of rural areas.

The Russian Federation usage of large swathes of fertile farmland in the country's eastern regions has exacerbated the concern about the Russian Federation control and ownership. The legal stipulation in Law 552-IX that any admission of foreigners to Ukrainian land markets would require a national referendum was strengthened by a promise made by President Volodymyr Zelensky when the law came into effect.

Among Ukraine's many strengths are its struggle and commitment to a responsive and democratic political system. When deciding on the future of the country's agricultural reforms, Ukrainian policymakers will have to balance the urgent need for investment with the needs of small farms. Given that land is Ukraine's most valuable resource, the future of land markets will be forged in the ongoing public debates between proponents and sceptics, detailed in this paper.





ANNEX 1. UKRAINIAN LAND REFORM, 1990-2023

Year	Law	Stipulations
1990	Verkhovna Rada of the Ukrainian Soviet Socialist Republic (SSR), Resolution dated 18 December 1990 No. 563-XII	Publicized Ukrainian SSR's intentions to carry out land reform.
1992	Verkhovna Rada of Ukraine, Legal change: "On Forms of Land Ownership" dated 30 January 1992 No. 2074-XII	Legalized collective and private land ownership, maintained state land ownership.
1992	Verkhovna Rada Resolution: "On acceleration of land reform and privatization of land" dated 13 March 1992 No. 2200-XII	Privatized land plots adjacent to rural housing, created collective horticulture for companies from these company's land plots.
1992	Government of Ukraine Decree: "On Privatization of Land Plots" dated 26 December 1992, No. 15-92	Allowed citizens limited right to sell or alienated land plots adjacent to rural dwellings (did not concern agricultural land).
1994	Presidential Decree: "On Urgent Measures to Accelerate Land Reform in the Field of Agricultural Production" dated 10 November 1994 No. 666/94	Intended to accelerate land privatization process.
1999	Presidential Decree: "On Urgent Measures to Accelerate the Reform of the Agrarian Sector" dated 3 December 1999 No. 1529/99	Reformed collective agricultural enterprises.
2001	Verkhovna Rada of Ukraine, Legal change: Amendment to Land Code dated 25 October 2001 No. 2768-III	Created moratorium on sale of agricultural land until 1 January 2005; later extended.
2003	Verkhovna Rada of Ukraine, legal changes: Law of Ukraine "On Land Management" dated 22 May 2003 No. 858-IV Law of Ukraine "On the procedure for allocating in kind land plots to owners of land shares" dated 5 June 2003 No. 899-IV Law of Ukraine "On Land Protection" dated 19 June 2003 No. 962-IV Law of Ukraine "On State Control of Land Use and Protection" dated 19 June 2003 No. 963-IV Law of Ukraine "On the Use of Defence Lands" dated 27 November 2003 No. 1345-IV Law of Ukraine "On Land Valuation" dated 11 December 2003 No. 1378-IV	Legislative changes that defined the general principles and procedure of land management in Ukraine, including land lease and land tenancy.



2011	Draft Law "On the land market" dated 7 December 2011 No. 9001-d	Planned to lift moratorium on sale of agricultural land and ban land sales to foreigners; draft debated and ultimately rejected in 2012.
2013	Pursuant to laws passed in 2003	Introduced auctions for sale of lease rights and land ownership.
2015	Pursuant to laws passed in 2003	Mandated auctions; significantly increased land leases and budget revenues.
2017	Cabinet of Ministers of Ukraine, Resolution: "On the implementation of a pilot project on monitoring land relations" dated 23 August 2017 No. 639	Formed Land Relations Monitoring system.
2018 2020	Cabinet of Ministers of Ukraine, Resolution: "The issue of the transfer of state-owned agricultural land plots to the communal ownership of united territorial communities" dated 31 January 2018 No. 60	1.7m hectares of land is transferred to the "amalgamated hromada," new local self-government units .
2020	Verkhovna Rada of Ukraine, Legal change: Law 552-IX "On Amendments to Certain Legislative Acts of Ukraine Regarding the Circulation of Agricultural Land" dated 31 March 2020 No. 552-IX	Legislates land markets.
2021	Pursuant to Law 552-IX	Implementation of first phase of land markets begins, allowing sales to Ukrainian individuals.
2024	Pursuant to Law 552-IX	Implementation of second phase of land markets; permitting sales to Ukrainian companies.

Source: Authors's own elaboration, adapted and updated from Csaki, C. and Lerman, Z. 1997. *Land Reform and Farm Restructuring in East Central Europe and CIS in the 1990s: Expectations and Achievements After the First Five Years*. European Review of Agricultural Economics, 24(3-4): 428-52. <https://doi.org/10.1093/erae/24.3-4.428>



ANNEX 2. STAKEHOLDERS IN UKRAINE'S AGRICULTURAL REFORMS

Agroholdings	Many agroholdings explicitly support the full introduction of a land market. Others have been opposed, and a third group has not expressed a position publicly.
International and national financial institutions, including development banks	These actors see great potential in introducing a land market. They are ready to make investments, and are already preparing possible financing options for acquiring agricultural land.
National and local authorities and regulators	For many years, authorities were navigating the interests of the above-mentioned parties. National authorities depend on the international financial institutions, while regional and local authorities at times sided with parties who wanted to keep the moratorium. Under the Poroshenko and Zelensky governments, national authorities have supported land reforms.
Political parties	Parties have utilized the electorate's scepticism and sensitivity about land issues and opposition parties took positions against land reforms; in practice, parties support the interest and positions of agroholdings or oligarchs with whom they have political alliances.
Civil society organizations	Societal groups vary widely in their views. Some represent the interests of small farms; others are influenced by agribusinesses or other parties.

Source: Authors, adapted and updated from Amosov, M. 2023. *The Land Question: Land concentration and the agricultural land moratorium in Ukraine*. TNI. Amsterdam. <https://longreads.tni.org/the-land-question-ukraine>



ANNEX 3. SUMMARY TABLE OF ARGUMENTS IN FAVOUR OF PROCEEDING WITH LAND REFORMS AND ARGUMENTS FOR SLOWING DOWN OR SUSPENDING LAND REFORMS

Arguments for proceeding with land reforms	Arguments for slowing down or suspending land reforms
<p>1. Investment is needed to guarantee economic security, recovery and development</p> <p>The legalization of land markets and the registration of land tenure are a prerequisite for agricultural investment, economic security during the war and post-war economic recovery. Higher production and yields will boost Ukraine's GDP growth, contributing to future development</p>	<p>1. Insufficient protection of small and medium-sized farmers</p> <p>Many small and medium-sized farmers currently do not have the means to acquire land. Law 552-IX and other government programs do not provide funds or other protection for these farms. A pause in land reform would allow the state to develop support mechanisms for these groups.</p>
<p>2. Land markets for individuals are functioning despite the war</p> <p>After a period of emergency suspension in 2022, land market transactions have proceeded as planned in 2022 and 2023, despite the war-related disruptions.</p>	<p>2. War-related displacement and upheaval prevents combatants, refugees, and IDPs from participate in land markets</p> <p>Combatants serving in Ukraine's territorial defence, refugees and internally displaced persons who own land certificates may be unable to participate in land auctions. Paper certificates may be lost during the displacement and upheaval caused by the war. Proceeding with land reforms will create unjust disadvantages for these populations.</p>
<p>3. Legalization of companies de facto participation in land markets</p> <p>Companies (legal entities) are already actively participating in the transfer of land rights, regardless of formal restrictions. Legal changes will increase transparency, allow for tax collection and the enforcement of rules and restrictions by the land legislation.</p>	<p>3. Risk of concentration of land in the hands of agroholdings</p> <p>Because of 1. and 2. above, unrestricted land sales may lead to a concentration of significant land areas in the hands of large agroholdings. This will have negative repercussions on rural economies and increase economic inequality. It may also increase the risks of corruption: large agroholdings may lobby government insiders to bypass rules and restrictions established by land legislation.</p>



4. Allowing foreign land ownership could foster international political support for Ukraine, such as for a Marshall Plan for Ukraine

Allowing foreign land ownership will facilitate an influx of foreign investment, technological upgrading that allow for the most technologically efficient use of land. Foreign landowners are more likely to advocate for support for Ukraine and get involved on behalf of Ukraine in political negotiations of global capitals. This may make a generous Marshall Plan for Ukraine more likely

4. Risks for sustainable rural development

Large farms and profit incentives of large-scale, high-input farming will make monocultures more likely and may lead to environmentally unsustainable farming methods, including the excessive use of synthetic fertilizers and pesticides.

5. Land reform as part of European integration

Legalizing land use and land claims is a key element of private property rights, a fundamental institution of market economies. Halting or rolling back reforms will impede the process of European integration.

5. Challenge of temporary occupation

Significant areas of Ukrainian arable land are located in territories temporarily occupied by the Russian Federation armed forces and are affected by shifting borders and proximity to fighting. In these areas, it is not possible to implement the land reforms as stipulated by Law 552-IX.

Source: Authors' own elaboration.



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