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CROSS-BORDER ACQUISITION OF AGRICULTURAL LANDS
A PERSPECTIVE FROM THE VISEGRÁD COUNTRIES

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1. Subject and the aim of the dissertation

Cross-border agricultural land acquisitions have gained increasing attention in legal and policy discourse, evolving from a relatively overlooked issue into a subject of intense international interest. This growing relevance is driven by multiple global developments, and changes in national and supranational regulatory frameworks. The thesis examines the legal and regulatory dimensions of these acquisitions, examining how the national laws of the Visegrád countries, the European Union frameworks and international investment law respond to and shape this complex phenomenon.

Although the acquisition of agricultural land by foreign persons is not a new 'practice', the scale and scope of such acquisitions have escalated significantly over the past two decades, creating complex legal challenges related to national interests, rural development, and property rights. This thesis provides a comprehensive analysis of the legal mechanisms governing these acquisitions, identifying both regulatory gaps and innovations.

A key turning point occurred after the 2008 global financial crisis, which increased investor interest in low-volatility tangible assets such as land. Agricultural land became attractive for long-term returns, portfolio diversification, and strategic resource control. Domestic policies in many jurisdictions facilitated this trend, viewing foreign investment as an opportunity for modernisation, rural revitalisation, and economic growth. At the same time, critical legal questions arise, such as how to balance capital inflows with the protection of land rights, food sovereignty, and social stability, and how supranational entities like the EU navigate tensions between internal market freedoms and Member States' land legislation.

Individual countries have adopted distinct legal approaches to address these questions. Hungary, for example, since 1994, maintains a blanket ban on all legal persons—foreign and domestic—from acquiring ownership of agricultural land, reflecting social and political objectives such as preserving family farms and preventing land concentration.

Globally, agricultural land is increasingly treated as a financial asset rather than merely a means of agricultural production, raising concerns about speculation, displacement of communities, and transparency. In some cases, large-scale acquisitions by transnational corporations have been criticised as a form of 'neo-colonialism'.

When an agricultural land acquisition originates from a non-EU country, EU law does not apply. Instead, such matters are typically governed by bilateral agreements between the states involved. Prior to the Lisbon Treaty (2009), Member States independently concluded such agreements; but from this date, the EU assumes this role. Currently, the EU is working to

replace the existing bilateral investment treaties (BITs) with unified EU-level agreements. The EU-Singapore Free Trade Agreement exemplifies the legal and political debates surrounding competence in investment matters, with the CJEU clarifying that Member States retain involvement in complex investment decisions despite EU competence.

Cross-border agricultural land acquisitions raise questions at the intersection of international, EU, and national law. These transactions test the ability of legal systems to regulate complex investments while balancing market liberalisation, national autonomy, and protection of property rights. The evolving treatment of land as an investment requires reconsideration of legal categories and public interest considerations. EU law adds complexity, as Member States must reconcile national land law legislation with internal market freedoms, while invoking legitimate public interest exceptions. This interplay creates regulatory gaps and opportunities for innovation, highlighting the need for a coherent comparative legal analysis.

Based on this, the research is guided by three main hypotheses. The first hypothesis posits that the national land law frameworks of the Visegrád countries adopt distinct approaches to the acquisition, transfer, use, and inheritance of agricultural land, reflecting each country's legal traditions and national interests. The second hypothesis asserts that the EU legal framework provides a coherent and suitable structure enabling Member States to regulate agricultural land acquisitions while ensuring alignment with EU law and safeguarding legitimate national interests. The third hypothesis focuses on international investment agreements, which strengthen legal protections for foreign investors in agricultural land acquisitions and may, in turn, limit host states' regulatory autonomy, complicating the reconciliation of investment protection with public policy objectives. Together, these hypotheses serve as a guiding framework for the research, shaping its direction and providing a structured lens through which the analysis can be conducted.

2. Methodology of the research

The methodology applied in this thesis is primarily doctrinal, complemented by comparative, normative, and interdisciplinary approaches. Given the relatively limited academic literature on land law legislation, particularly in the Czech Republic and Slovakia, the dissertation aims to contribute both to the academic understanding of land law and to the discourse on the interaction between national land protective measures and supranational legal frameworks, including EU law and international investment law.

Part I is doctrinal, systematically examining, clarifying, and structuring the key legal terms and concepts relevant to the topic of the thesis in the Visegrád countries. Doctrinal research, in this context, seeks to answer the fundamental question of 'what the law is' in each jurisdiction. The doctrinal method is supplemented by critical evaluation, identifying inconsistencies, ambiguities, and gaps in land law legislation of the respective countries, paying special attention to mechanisms for protecting agricultural land, the regulation of transfer of the ownership, and succession rules. This comparative analysis identifies common patterns and divergences, incorporating historical and socio-legal context, including post-socialist transitions and EU accession.

Part II examines national land law legislation in the context of EU law, assessing the margin of appreciation that Member States retain under internal market constraints, particularly regarding free movement of capital and freedom of establishment. The analysis incorporates CJEU case law, infringement proceedings, and preliminary ruling procedures to highlight tensions between national land policies and EU obligations. In this part, doctrinal analysis is combined with a comparative evaluation of practical effects on national legislation.

Part III examines international dimensions, focusing on extra-EU agricultural land acquisitions. The methodology includes analysis of bilateral and multilateral agreements, EU foreign direct investment rules, reforms such as the Investment Court System, and agreements with countries including Canada, Japan, Singapore, and Vietnam. The thesis assesses treaty provisions' impact on national land law and examines the interplay between international investment rules, EU frameworks, and domestic regulation.

Throughout the dissertation, the normative methods evaluate the adequacy, coherence, and effectiveness of legal frameworks, identifying gaps, contradictions, or inconsistencies, while interdisciplinary perspectives consider economic, rural development, environmental, and public policy aspects. Historical and contextual analysis further situates national laws within post-socialist transitions and EU accession processes.

Overall, the methodology integrates doctrinal, comparative, normative, and interdisciplinary approaches. By examining national laws, EU integration, and international investment frameworks, the thesis offers a comprehensive analysis of cross-border agricultural land issues, clarifying formal legal structures and their practical application, while highlighting areas for potential reform and academic contribution.

3. Structure of the dissertation

The dissertation is structured into five main parts.

The introductory part outlines the framework, methodology, and scope of the research.

Part I examines the land law regimes of the Visegrád countries presented in alphabetical order. Each chapter follows a unified structure covering sources of law, legal definitions and concepts, rules on the acquisition of ownership of agricultural land, whether by inheritance or by acquiring shares in a company that owns agricultural land, and acquisition of other rights. This consistency enables systematic comparison, and the findings form the basis for later evaluation and reform proposals.

Part II analyses the EU legal framework and its impact on Member States' margin of appreciation related to land law legislation of respective countries. It traces the evolution of EU integration, highlighting the role of the European Commission and the CJEU in enforcing market freedoms. Particular attention is given to infringement proceedings initiated against the Visegrád countries, the preliminary ruling procedures, and the tension between national land protection measures and EU obligations.

Part III addresses cross-border acquisitions of agricultural land, focusing on extra-EU acquisitions. The chapter considers some relevant EU investment agreements, including, for example, those with Canada, Japan, Singapore, or Vietnam. Since the Lisbon Treaty is in effect, FDI falls under EU competence, although pre-existing BITs remain in effect until replaced. EU reforms frame the regulatory context for cross-border agricultural land acquisitions.

Finally, the concluding chapter presents a synthesis of the main findings of the comparative analysis, offers concluding observations, and considers the broader significance of the research, including potential directions for future study.

4. Brief summary of the scientific results

The aim of the thesis was to examine the cross-border acquisition of agricultural lands, putting a particular emphasis on the evolving legal frameworks governing such acquisitions in the Visegrád countries, and within the broader context of European Union law and international investment law. It can be stated, that the regulation of cross-border agricultural land acquisitions remains one of the most contested and sensitive areas of land governance.

The introductory part aimed to provide the foundation for this thesis by explaining the relevance of cross-border agricultural land acquisitions, outlining the national, EU, and

international legal frameworks, clarifying key concepts, and presenting the hypotheses. This part also described the methodology and structure of the dissertation, thereby setting the stage for the detailed analysis.

Part I of the thesis has undertaken a comprehensive comparative analysis of the land law legislation of the Visegrád countries, with particular emphasis on agricultural land, examining their constitutional foundations, legislative frameworks, and key terms, concepts, and mechanisms governing acquisition, succession, and use of agricultural land. The research has confirmed that, despite shared historical background, the four legal systems have displayed distinct orientations and varying degrees of regulatory intervention.

At the constitutional level, Hungary and Slovakia provide the strongest recognition of agricultural land protection. Hungary elevates agricultural land to the level of a constitutional value, defining it as part of the nation's common heritage and authorising the legislator to impose restrictions on its acquisition and use. Slovakia's 2017 constitutional amendment classifies agricultural land as a non-renewable natural resource, obliging the state to ensure its rational use. Poland, though lacking an explicit constitutional reference to agricultural land or agricultural real estate, acknowledges the family farm as the basis of its agricultural system. The Czech Republic, by contrast, provides no specific constitutional protection, relying instead on general property guarantees. This divergence already indicates two broad tendencies: a public-law-oriented, protective approach, and a private-law, market-oriented one.

In terms of level of acts, Hungary's framework has proven to be the most integrated, with cardinal acts establishing a coherent hierarchy of legislation governing land transfer, holdings, and succession. Slovakia remains fragmented, operating through a combination of distinct acts. Poland employs a hybrid model combining general private law with specialised legislation, while the Czech Republic relies mainly on the Civil Code and a limited number of specific acts, reflecting a minimalist approach. This comparative mapping confirms that the degree of legislative integration correlates with the extent of state intervention—the more consolidated the sources, the more regulated the market.

Regarding the legal concept of agricultural land, all V4 countries define it, yet the scope and classification vary. As for agricultural holdings, the divergence is even more pronounced. Hungary distinguishes between personal farms, family farms, and farms; Poland recognises both agricultural and family farms, the latter enjoying constitutional protection. Slovakia has recently introduced the concepts of the family farm and the family enterprise, aligning agricultural entrepreneurship with family-based ownership structures. The Czech Republic,

however, does not explicitly recognise agricultural holdings as a distinct legal category. However, a subtype of agricultural holdings, namely the family farms, is recognised.

In relation to the acquisition of ownership of agricultural land, two models have emerged. The Czech Republic and Slovakia follow a liberal approach, allowing acquisition by domestic and foreign persons, subject mainly to reciprocity. Poland and Hungary, by contrast, adopt restrictive regimes, limiting acquisitions and imposing strict restrictions not only on natural persons but also on legal persons.

The succession rules regarding agricultural land and holdings show similar divergence. The Czech Republic and Slovakia apply general civil law, while Hungary and Poland have developed specialised frameworks.

When examining acquisition through shares in companies, the Czech Republic and Slovakia impose no special limitations. In Hungary, this question is irrelevant, as legal persons cannot acquire ownership of agricultural land (with a few exceptions), while in Poland, acquisitions of shares in companies holding agricultural assets are regulated: foreigners from outside the EEA/Switzerland require a permit under the AAREF, and the NASC has a pre-emption right under the ASAS for companies owning agricultural land of at least five hectares.

Regarding other rights, it appears that in Czechia these issues are governed by general civil law, whereas in the other three countries the legislator has enacted specific rules.

The comparative evaluation of national measures under the Commission's Interpretative Communication has further clarified the regulatory landscape. For example, Hungary and Poland employ prior authorisation, pre-emption rights, self-farming obligations, and qualification requirements; the Czech Republic limits itself to state pre-emption, while Slovakia applies none of these measures. Poland uniquely regulates land prices and residence conditions, and both Poland and Hungary favour local acquirers.

The analysis has thus confirmed significant divergence across the Visegrád countries at each level. The protective models of Hungary and Poland contrast with the liberal regimes of the Czech Republic and Slovakia, yet all four share challenges of internal incoherence, definitional ambiguity, and the need for balanced reform. *De lege ferenda* proposals formulated in the thesis emphasise the clarification and harmonisation of legal definitions and concepts, especially concerning agricultural holdings; the refinement of succession rules; and the tailoring of restrictions and sanctions to achieve a balanced yet functional legal environment.

In Part II of the thesis the author highlighted the European Union's crucial role in economic cooperation over the past half-century, with a central focus on establishing the internal market. The research has demonstrated that the EU internal market, rooted in the free

movement of goods, services, persons, and capital, remains a cornerstone of European integration. Conceived to overcome post-war fragmentation and stimulate growth, it now embodies both economic cooperation and social cohesion. Yet, the governance of land—particularly agricultural land—represents one of the most sensitive intersections between national sovereignty and EU law. Land is not merely an economic asset but a finite natural resource tied to, *inter alia*, sustainability, and territorial development. This dual character makes its regulation uniquely contentious within the broader project of European integration. The thesis has shown that Member States retain a margin of appreciation in shaping land laws, but this margin is not unlimited. Through its jurisprudence, the CJEU has consistently emphasised that land policy objectives must comply with the principles of, *inter alia*, non-discrimination and proportionality. Landmark cases including *Ospelt*, *Festersen*, and *KOB SIA* illustrate the delicate balancing act between EU economic freedoms and national objectives. Notably, the evolution of CJEU jurisprudence, particularly in *KOB SIA*, has expanded the interpretive scope of internal market law by applying the Services Directive and freedom of establishment to land acquisitions, further narrowing the margin of appreciation available to Member States.

Institutional mechanisms further reinforce this balance. Infringement proceedings, increasingly used by the European Commission, ensure that Member States respect Treaty obligations. Slovakia, for instance, adjusted its land acquisition rules following Commission action, while Hungary has been repeatedly scrutinised, notably concerning foreign ownership restrictions and the termination of usufruct rights between non-close relatives. Similarly, the preliminary ruling procedure has proven central to maintaining uniform interpretation of EU law. Hungarian cases such as *SEGRO and Horváth*, *Bán and Kovács*, *Grossmania*, and *Nemzeti Földügyi Központ* reveal the CJEU's pivotal role in clarifying the compatibility of national measures with EU principles.

The findings of the thesis underscore a broader challenge for the EU: balancing market integration with the legitimate interests of Member States. Agricultural land, in particular, sits at the intersection of economic liberalisation, environmental sustainability, and social cohesion. The experience of the Visegrád countries illustrates the persistent tension between safeguarding domestic agricultural structures and complying with EU law. While national legislation often reflects concerns about sovereignty and resource protection, the EU framework requires that such measures align with internal market principles and fundamental rights.

Finally, Part III focused on cross-border agricultural land acquisitions in the context of IIL, with particular emphasis on the legal frameworks established by IIAs and related trade and partnership agreements. The thesis examined a variety of treaty types: some, such as CETA and the EU-Japan EPA, feature dedicated investment chapters with comprehensive protections typical of classical IIAs; others, like the EU-Singapore, EU-Viet Nam, and EU-Korea FTAs, integrate investment protections within broader chapters on services and establishment. Agreements such as the EU-UK TCA, EU-Georgia Association Agreement, CEPA, and EMPA, pursue broader trade and political cooperation objectives. While these instruments include provisions relevant to investment—most notably on establishment, services, and capital movements—they do not constitute standalone IIAs and generally lack a comprehensive investment protection regime or dedicated investor–state dispute settlement mechanisms.

The research highlights the complex nature of cross-border agricultural land acquisitions, which require balancing economic liberalisation with states' sovereign control over strategic resources. EU IIAs address this challenge by incorporating detailed reservations and exceptions, enabling Member States to maintain or introduce restrictions on foreign land ownership while complying with broader investment obligations. These provisions are generally embedded within broader chapters rather than treated separately. Within this framework, the Visegrád countries consistently maintain robust national restrictions: acquisitions often require permits, are limited to specific categories of investors, or prohibit foreign ownership of particular land types. These measures demonstrate how V4 states leverage the flexibility provided by EU IIAs to safeguard national interests while participating in international investment frameworks.

To sum up, three hypotheses guided the research. The first one was confirmed: the comparative analysis of the Visegrád countries confirms that national land law frameworks adopt distinct approaches to the acquisition, transfer, and inheritance of agricultural land, reflecting each country's legal traditions, constitutional arrangements, and priorities. Regarding the second hypothesis, it can be stated that the experience of the Member States demonstrates that EU law constrains their margin of appreciation, limiting their ability to design national measures even when pursuing legitimate public interest objectives. The third hypothesis was confirmed, as IIAs—including IIAs and EU FTAs with investment provisions—strengthen protections for foreign investors and may restrict host states' regulatory autonomy, emphasising the need for carefully designed reservations and dispute settlement mechanisms to preserve national control over strategic land resources.

5. Publications of the author in the topic of the dissertation

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