

Agricultural Land Protection – the Case of Slovakia

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Lucia Pašová

Faculty of European Studies and Regional Development, Slovak University of
Agriculture in Nitra, Slovakia
e-mail: lucia.palsova@uniag.sk

Anna Bandlerová

Faculty of European Studies and Regional Development, Slovak University of
Agriculture in Nitra, Slovakia
e-mail: anna.bandlerova@uniag.sk

Ina Melišková

Faculty of European Studies and Regional Development, Slovak University of
Agriculture in Nitra, Slovakia
e-mail: xmeliskova@is.uniag.sk

Pavol Schwarcz

Faculty of European Studies and Regional Development, Slovak University of
Agriculture in Nitra, Slovakia
e-mail: pavol.schwarcz@uniag.sk

Abstract: This paper analyses the existing legislation governing the protection of agricultural land in Slovakia focusing on the protection of agricultural land through contributions as an economic instrument of protection of agricultural land. It assesses the situation of the decrease of acreage of agricultural land at a time when the legislature did not use contributions for the protection of agricultural land against its usage for other than agricultural purposes and at a time when the contributions were re-used as an economic tool through which the usage of agricultural land for other than agricultural purposes is prevented.

Keywords: agricultural land, agricultural land protection, contributions - economic instrument

1 Introduction

According to the United Nations the land is a limited and irreplaceable natural resource with increasing substantial demands placed on it [1]. As a result of increasingly heavy pressure on land resources (e.g. housing, transport infrastructure, energy production, agriculture, and nature protection), agricultural production declines, the quantity and quality of land deteriorates, and there is increasing competition for access to land [2]. The competition for land resources creates serious risks of geopolitical imbalances both worldwide and in the EU. The EU will thus be even more dependent in future on its land resources – which include some of the most fertile soils in the world – and on their sustainable use .

Agricultural land represent one most vulnerable type of land resource. In the EU, more than 1,000 km² are subject to withdrawal every year for housing, industry, roads or recreational purposes. About half of this surface is actually 'sealed'. The availability of infrastructure varies considerably between regions, but in aggregate, every ten years we pave over a surface area equivalent to Cyprus [4].

Slovak law has paid particular attention to the protection of agricultural land for many decades as a result of the fact that the Slovak Republic has relatively little land of not the best quality on average, taking into account the population and the demands to ensure its nutrition [5].

A total size of land resources of the SR as of January 1, 2016 is 4,903,459 ha of land, of which 2,389,616 ha is agricultural land [6]. In the course of one calendar year in connection with changes of a permanent nature and specifying the measuring assessment we recorded a loss of 7425 ha of agricultural land [6]. A surface area of agricultural land is continuously shrinking. Over the last decade there was a decrease of 41,067 ha of agricultural land in Slovakia [6, 7].

Apart from the biological conservation of land the law as well as economic tools play an important role in the agricultural land protection. At present, there are these valid and commonly used economic instruments of the protection of

agricultural land: charges for the removal and unauthorized withdrawal of agricultural land, taxes and land prices, subsidies and incentives leading to land protection but also the penalties for offenses in the field of land protection.

2 Aims and materials

The aim of this paper is to analyse the current legislation protecting agricultural land in Slovakia focusing on the protection of agricultural land through contributions as an economic instrument of protection of agricultural land. It assesses the situation of the decrease of acreage of agricultural land at a time when the legislature did not use contributions for the protection of agricultural land against its usage for other than agricultural purpose and at a time when the contributions were re-used as an economic tool through which the usage of agricultural land for other than agricultural purposes is prevented. The paper was worked out on the basis of materials collected in the frame of SULANET and ECAP EU project focused on legal tools of land protection (how legal tools effected land protection).

3 Discussion and results

The Slovak Republic is a country with a relatively small area of agricultural land, with a below-average area of agricultural land per 1 inhabitant. Currently, the per capita accounts for 0.44 ha of agricultural and 0.26 ha of arable land. In the world the ratio is 0.80 ha of agricultural and 0.27 ha of arable land [8].

There are various approaches to soil protection. Many of them have good scientific bases and are well managed in practice. They differ only in the efforts to point out that something is being done in this area. However, the truth is that we have moved only a little closer to the ideal state, in which the threats to soil are stopped or at least reduced to a professionally and socially acceptable level. This may be caused by what a well-known Russian diplomat, poet, and playwright, A. S. Griboyedov (1795-1829) called “gore ot uma” (woe from wit), or maybe Džatko and his work entitled “Stvoriteľské dielo, človek a udržateľný rozvoj stvorenstva” (Work of the Creator, Man and the Sustainable Development of the Created) was right when he said that “a man cannot understand the system he did not create, and therefore he must destroy and rebuild it at first to understand the limits within which it can be used”.

The impulse for a new approach to the land protection was the Government Resolution no. 1141 [9], adopted on December 6, 2001, entitled "Principles of State Land Policy of the Slovak Republic" that directed to protection of the soil as a natural heritage of Slovakia. The resolution defined the soil as the top layer of

eroded surface of the earth's crust containing water, air and living organisms. It defined individual functions of soil – organic functions (biomass production, filtration, neutralization and metabolism of substances in nature and maintenance of the ecological and genetic potential of living organisms) and functions associated with human activities (a part of the space base for socio-economic activities, supply of raw materials, cultural and natural heritage of the country).

Compared to the previous legal regulation, the resolution has a greater focus on organic function of soil. Stability of the soil organic matter also significantly depends on the natural resistance of the organic matter to decomposition which crucially depends on its internal structure, which was quite fittingly presented by Baldock and Skjemstad [10]. The resolution also points out negative effects of the intensification of agriculture in previous period, in particular soil compaction, the use of large and heavy agricultural machinery and economically motivated agricultural approaches (deficit in the use of organic fertilisers, rare cultivation of deep rooting plants). Several fundamental works have been published in order to clarify those problems. In the past, they were evaluated mainly in relation to crop yield. Emphasis was laid on the influence of heavy mechanisms that can affect soil to a depth of 30 cm and sometimes even deeper, i.e. to 50 cm or more [11].

Therefore the resolution stressed the importance of the proper use of the land respecting the principles and criteria of sustainable development communicating the protection of the quality and quantity of land. It reminds us that the land protection is carried out in the context of the protection of environmental components and the objective is to stabilize the area and volume of top quality land and prevent its unreasonable withdrawal. It is due an irreversible and immediate soil loss over time scales of hundreds of years and an increasing phenomenon in the current soil development [12]. The Ministry of Agriculture of the SR and local state administration bodies carried out the government management of land protection. The resolution highlighted the role of monitoring and a comprehensive information system on the status, characteristics and development of the land quality. This permanent and government supported creation of knowledge about land was also carried out as an obligation to contribute to the creation and updating of international documents on land. The resolution also focused on the international integration in which it is crucial to implement the principles applied in the European Union and other international principles and rules designed for protection and proper land usage. By this resolution the state land policy was declared clearly defining the principles and priorities of state related to land as an essential and non-renewable natural resource and a national wealth and heritage of future generations. By accepting the Principles of State Land Policy of the Slovak Republic the Government fulfilled the objective to implement initiatives to protect the land resonating world-wide but especially coming from the European Union.

As a response to the above mentioned resolution of the Government, the Law no. 220/2004 Coll. [13] was the adopted. The concept of agricultural land resources

has been replaced by agricultural land. The law emphasized the protection of the environmental functions of agricultural land, ensuring the sustainable management and use, as it was declared in the Principles of State Land Policy. It defined basic legal concepts, specifying the agricultural land as the production potential land registered in the land register such as arable land, hop fields, vineyards, orchards, gardens and grasslands; the law also defined the concept of a credit soil-ecological units (CSEU-in Slovakia referred to as BPEJ) as the classification and identification figure for the quality and value of production-ecological potential of agricultural land in the soil habitat. The law established the obligation of each owner or user of agricultural land to protect agricultural land from degradation, erosion, compaction and hazardous materials. It defined the principles of sustainable usage of agricultural land, its management and protection and legally regulated the changes of types of land. In accordance with this legislation an authority for protection of agricultural land issues a decision to change the type of agricultural land to non-agricultural land, agricultural land or afforestation of agricultural land. At the same time the principles protecting agricultural land were introduced in the case when the land is used for non-agricultural purposes. Agricultural land could only be used for constructions and other non-agricultural purposes when necessary and in a reasonable scope. It was only possible to withdraw agricultural land permanently or temporarily, or use agricultural land for non-agricultural purposes for the period of one year including the restoration of land to the original condition. A permanent withdrawal of agricultural land was defined by the law as a permanent change of use of agricultural land with a permanent change of the land type in the land register. A temporary withdrawal was understood as a temporary change in the method of use of agricultural land for up to ten years that is reclaimed into original state. The authorities of the agricultural land protection were the Ministry of Agriculture (central body for the protection of agricultural land), Regional Land Office (a coordinator of cooperation with soil services) and District Land Office (made decisions in particular on the withdrawal of agricultural land, imposed fines and cooperated with soil services). These authorities carried out professional supervision in cooperation with the newly established soil services, obligated by law to implement surveillance and monitoring of agricultural land, keep an information database and process proposals for measures and expert opinions in accordance with the law. It was possible to impose fines for offenses in the field of protection of agricultural land. The amount of the fine was determined based mainly on the seriousness, manner and duration of the offense and the scope and extent of the damage or threat of the damage caused. A fine was imposed by the authority for the protection of agricultural land and the income from the fines constituted a revenue of the state budget. Each of the legislation which used the institute of contributions for the withdrawal of agricultural land at the same time also ordered a number of exceptions from the obligation to pay contributions. The exceptions related to approximately 70% of all agricultural land withdrawals [14] and thus, considered by the law makers, the contributions became unsystematic and

undemocratic, leading to their abolition at the time. On one hand, the law abolished the contributions, on the other hand, it toughened the rules related to the agricultural land keeping. The categories and limit values were fixed relating to erosion, compaction, quality of soil organic matter, liming of agricultural land, the limit values for risk substances in agricultural land, by which we understand the value of maximum permitted levels of hazardous substances and the level of contamination. The fines were left as the only economic instrument for the protection of agricultural land against its withdrawal and usage for other than agricultural purposes. Adopting this approach the legislature expected a positive impact on the owners and users of agricultural land. A reduction of the state budget income from missing payments for withdrawal of agricultural land should have been partially offset by increased contributions and taxes from business activities on the occupied land.

It turned out that the abolition of contributions for the withdrawal of agricultural land for other than agricultural purposes did not produce the effect that the legislature expected at the time of adoption of the Law no. 220/2004 Coll., when the contributions were abolished and so five years after an amendment to the Law. 220/2004 Coll., was approved, namely the Law no. 219/2008 Coll. [15], with the effect from January 1, 2009. This amendment re-introduced the contributions but only for the withdrawal of agricultural land classified under the code CSEU to categories 1-4. Through the institute of contributions for the withdrawal of agricultural land as a system economic instrument of the protection of the best quality agricultural land the conditions for the withdrawal of agricultural land for non-agricultural constructions and other plans became more strict. Another positive impact of paying contributions was an increased revenue of the government and thus securing the financing activities of the Ministry of Agriculture of the Slovak Republic in the form of balance between the revenue and the expenditure of the budget of the Ministry of Agriculture of the Slovak Republic in the course of the financial year. By introducing of the contributions for the withdrawals the legislator planned to achieve three society-wide objectives, namely to safeguard and stabilize the area of the best quality agricultural land in Slovakia, guiding and if needed making investors of buildings to target to sites in Slovakia outside the Bratislava and Trnava region, the land of inferior quality (CSEU category 5-9) and less important for agricultural primary production, which will lower their contributions, and also to limit their land requirements for the necessary extent of the withdrawal and finally securing funds for the implementation of certain provisions of the law, such as activities related to the arrangement of the registration of agricultural land in the land registry with the actual situation in the field and on the creation of an information system on soils. The contributions for permanent or temporary withdrawal of agricultural land was to be paid by the one who proposed its use for other than agricultural purposes. In case of a permanent withdrawal it was a permanent change in the method of use of agricultural land with a permanent change in the land register and in case of a temporary withdrawal it was a temporary change in the method of use of

agricultural land for a maximum of ten years. The land had to be reclaimed into the original condition. The obligation to pay contributions concerned also those who withdrew agricultural land without the decision of the authority for the protection of agricultural land. If the contribution was not paid on time, there was an obligation to pay a penalty for every commenced day of the delay amounting to 0.5% of the unpaid amount. Contributions as well as penalties were the revenue of the state budget. The law did not specify the amount of the contribution, however, in this regard the Slovak Government Regulation no. 376/2008 Coll. was adopted [16] establishing the amount of contribution and the method of payment. The amendment re-determined questions relating to the exemption from contributions for the withdrawal of agricultural land, but only if there was suitable land available in the cadastral territory classified under the CSEU code in category in 6-9.

Another important amendment to the Law no. 220/2004 Coll. was the Law no. 57/2013 Coll. [17], with effect from April 1, 2013. The reason for the adoption of the amendment was to adjust the direction and extent of the institute of the contribution for the withdrawal of the highest quality agricultural land in the appropriate cadastral area. The amendment was based on the need to protect the highest quality agricultural land by the institute of contributions in the cadastral area proportionally on the whole territory of the Slovak Republic by individual protection of certain specific CSEU codes in individual cadastral areas. The solution was an updated table of quality groups (CSEU codes) assigning a contribution for the withdrawal of agricultural land according to the quality of €/m² for each cadastral area within the territory of the SR. The contributions therefore had to be paid same like in the current legislation for each piece of agricultural land in Slovakia for all credit classes. A considerable extent of exceptions from the payment of the contributions for the withdrawal was abolished by the amendment because they accounted approximately 70% of all agricultural land withdrawals. A modification of the scope of exceptions was established by the Government Regulation of the Slovak Republic no. 58/2013 Coll. [18]. The regulation provided in addition to exemption from the contributions and the basic rate of the payment for the withdrawal of agricultural land and unauthorized agricultural land withdrawal, the list of the highest quality agricultural land in the cadastral territory according to the CSEU codes, the amount of contribution payment, the method of contribution payment and the contribution maturity. One of the exceptions to the payment of contributions for the agricultural land withdrawal was the case when a planning permission was issued, as a significant investment in the amount of at least one billion euros of the investment costs creating at least 2,000 new jobs during its implementation. According to the opinion of the European Commission the existence and application of the exemption from the contribution payment is an unlawful State aid and distorts competition. The legislature accepted objections of the European Commission and adopted an amendment to the Government Regulation no. 58/2013 Coll., namely the Regulation No. 363/2016 Coll. amending the Slovak

Republic Government Regulation no. 58/2013 Coll. [19], leaving out the given provision of the law. Contributions for the agricultural land withdrawal were only incidental revenues and it was not possible to directly affect their amount by the instruments of the ministry. The main objective of the introduction of the statute of the contributions for the agricultural land withdrawal was the protection of the finest agricultural land in Slovakia and not the fulfilment of the state budget revenues. The contributions had especially a protective and guidance character. Moreover, during the economic and financial crisis, investment activities of most potential investors in our country were reduced and the performance of these revenues significantly stagnated. In those circumstances the performance of the income from the agricultural land withdrawal was risky and the Ministry of Agriculture and Rural Development of the Slovak Republic in this period several times attempted to reduce respectively abolish the budgeting of this income, but due to the economic crisis and its society-wide impact this was not unacceptable by the Slovak Ministry of Finance. Regional Land Offices and District Land Offices in accordance with the Law no.220/2004 Coll. on the protection and use of agricultural land and the Government Regulation no. 376/2008 regulating the amount and method of the payment of contributions for the withdrawal of agricultural land reached in 2010 revenues from contributions for the withdrawal of agricultural land in the amount of 1 126,671.97 € which is 99.23%, i.e. 561,158.37 € more in comparison with 2009 [20]. The revenue from contributions for the withdrawal of agricultural land, which in 2011 were budgeted in the budget revenue of the Office of the Ministry of Agriculture and Rural Development of the Slovak Republic has been implemented in accordance with the Law no. 220/2004 Coll. on the protection and use of agricultural land and the Government Regulation no. 376/2008 regulating the amount and method of the payment of contributions for the withdrawal of agricultural land by Regional Land Offices and District Land Offices. Based on the decisions issued in 2011 these authorities reached the revenue from contributions for the withdrawal of agricultural land in the amount of 980,527.79 €, a decrease of 12.97%, i.e. 146,144.18 € less compared to the previous year 2010 [21]. The revenue from contributions for the withdrawal of agricultural land are indeed regular income, but at the same time they are unstable in their amount as evidenced by the amount of income from the contributions of Regional Land Offices and District Land Offices in 2012 in the amount of 2 889,920.03 € which is compared to 2011 an increase of 194.73%, i.e. 1 909,392.24 € [22]. In 2013, district land offices reached an income of 1 035,046.79 € and therefore compared with the previous year it decreased by 64.18%, i.e. 1 854,873.24 € [23]. For a period of five years from the reintroduction of contributions for the withdrawal of agricultural land, i.e. from 2009 through 2013 the real income from the contributions reached the amount of 6 597,680.18 €. At present it is impossible to precisely quantify the amount of these revenues because these are influenced by various factors such as the number of applicants for the withdrawal of agricultural land, range and quality of soil, which will be withdrawn. Therefore, the reasonable estimate is mainly based on

the actual implementation of these revenues in previous years. In the draft of the budget for 2014 and 2015, these revenues were budgeted in the Ministry of Agriculture and Rural Development of the Slovak Republic for both years in the amount of 504,130 €. The draft budget, however, in those years counted on the budgetary unmatched savings, which represented an increase in revenue from contributions for the withdrawal of agricultural land due to the cancellation of a significant number of exceptions from the duty to pay the contributions by 1 million € compared to the amount of the revenues budgeted in the draft budget [24, 25].

3.1 Shrinkage of agricultural land in Slovakia

The development of the structure of land resources in recent decades in Slovakia is characterized by a significant loss of agricultural land in connection with the intensive construction activities and reducing the importance of farming to the total gross domestic product.

Since 1950 there has been a decrease of more than 380,000 ha of agricultural land. The reason for this phenomenon is the preference of technical and economic benefits of agricultural land withdrawal for capital construction activities [25].

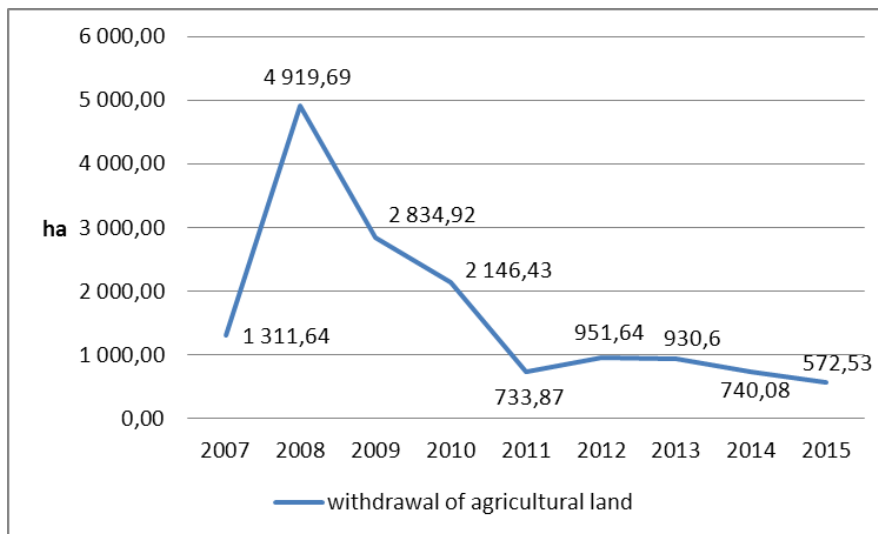


Figure 1

The area of agricultural land withdrawal in the period 2007-2015 (ha)

As demonstrated in Figure 1 the biggest agricultural land withdrawal in Slovakia was registered in 2008. This year was exceptional because it was the last year when the contributions for the agricultural land withdrawal were not paid. For the

period of nine years, i.e. from 2007 to 2015 a total of 15,141.40 ha of agricultural land was withdrawn.

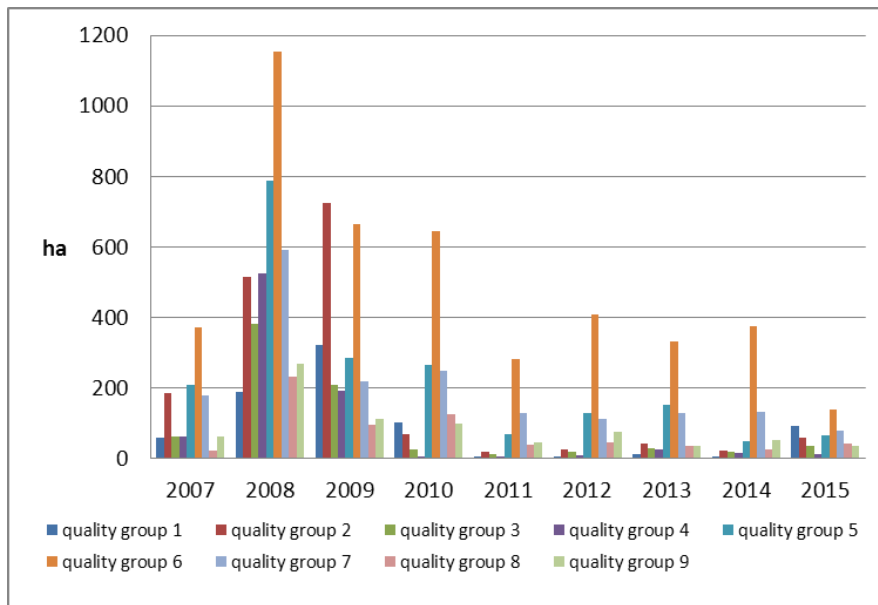


Figure 2

The area of agricultural land withdrawal in the period 2007-2015 (ha) according to CSEU

In 2008, the most of agricultural land, i.e. 25% was withdrawn in the quality group 6, representing 1,152.49 ha. On the other hand, the least of agricultural land, i.e. 4% of the total was withdrawn in the quality group 1, representing 188.94 ha. In the quality groups 1-4, 1,611.38 ha was withdrawn and in the quality groups 5-9, 3,038.04 ha of agricultural land was withdrawn.

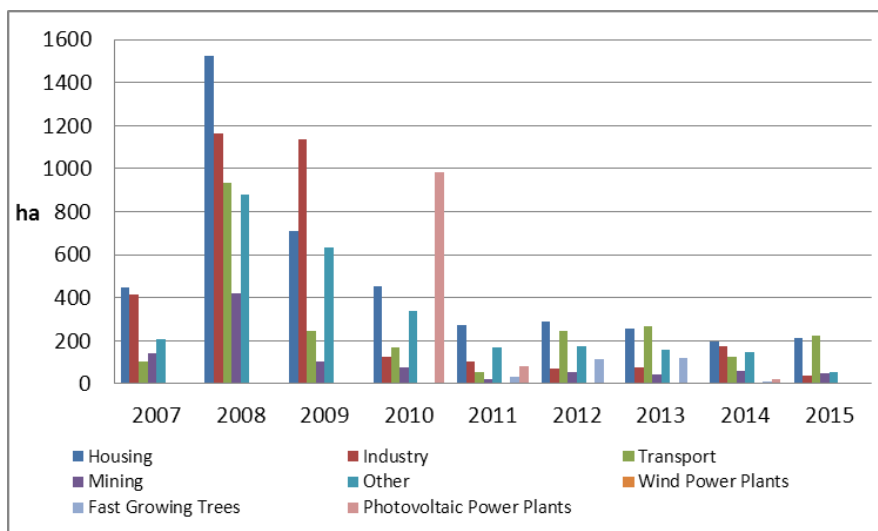


Figure 3

The area of agricultural land withdrawal in the period 2007-2015 (ha) according to purpose

The results show that only 28.80% of agricultural land was withdrawn for housing purposes, followed by industry 21.82% and transportation 15.62%. Interestingly, the agricultural land withdrawal for the purpose of setting up solar power plants in the years 2007-2015 represented 1,097.39 hectares, while the highest amount of withdrawals was recorded in 2010, representing 89.79% of the total area of the withdrawn area. The reason why the highest amount of withdrawals was recorded in 2010 was the fact that the state began providing subsidies for photovoltaic power plants in this year. In this case, an economic instrument did not play any decisive role in protecting agricultural land.

Conclusions

Agricultural land in Slovakia is mainly privately owned, but it is also a natural resource which should be of mutual interest. For this reason, the land needs to be protected for future generations. Fundamental legal changes have been made in the field of protection of agricultural land in recent years. Based on the Law no. 220/2004 Coll. on the protection and use of agricultural land contributions for the withdrawal of agricultural land for construction activities and other non-agricultural usage were abolished. Research results have shown that this change in legislation was not positive, since it has not provided sufficient protection of the top quality agricultural land. Currently, the most agricultural land is being withdrawn for the purpose of housing, followed by industry and transportation. Having studied the period of the application of the law, which abolished the contributions as an economic instrument for the protection of agricultural land and the reintroduction period of the contributions it can be stated that higher loss of

agricultural land occurred at a time when the contributions as an economic tool for the protection of agricultural land were not used. We believe that one way of protecting agricultural land against the degradation through its withdrawal for other than agricultural purposes is the full use of economic instruments. These include, in addition to the contributions, taxes, fees and charges. They apply in two main groups of payments, payments for environmental pollution and payments for the use of natural resources.

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