



Non-Contractual Use of State Treasury Agricultural Properties as a Challenge for Public Asset Management and Business Governance Models

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Abstract

Since state-owned lands are considered a strategic national resource, their effective management depends on unified legal frameworks, institutional capacity, and effective monitoring and enforcement mechanisms. This study analyzes non-contractual land use as a manifestation of governance failure situated at the intersection of public administration, business management, and corporate economics. This study employed a multi-methods approach combining desk research, legal and institutional analysis, and the analysis of administrative data from 2006 to 2024. The results show that deficiencies in monitoring systems, the fragmented nature of land registry records, information asymmetry, and limited coordination between institutions significantly weaken the protection of public property rights. Despite legal reforms implemented after 2016, unconditional land use continues, particularly in areas where state-owned land has historically been concentrated. The article proposes governance-focused solutions to improve the efficiency of public asset management and support sustainable rural development. These solutions include digital monitoring tools, geomatic analyses, risk-based control mechanisms, and incentive-based contract models.

Keywords: non-contractual land use, State Treasury assets, public administration, institutional economics, National Center for Agricultural Support

1. Introduction

Established pursuant to the Law "On the Management of State Treasury Agricultural Real Estate" of 19 October 1991, the State Treasury Agricultural Real Estate Fund (hereinafter: the Fund) constitutes the largest centrally managed portfolio of public land in Poland (Act, 1991, Articles 1–2). Until 2017, the Fund was administered by the Agricultural Property Agency (APA), and those powers were subsequently transferred to the NSCA under the National Agricultural Support Centre Act. The problem of using state-owned agricultural land without a contract has existed since the fund was established. However, the first official records regarding this case only began to appear in administrative reports in 2006 (Marks-Bielska & Zielińska, 2016). The intensity, forms, and reasons for unauthorized use vary by region and depend on the functional characteristics of the land.

The long-standing problem of the state treasury's uncontracted use of agricultural land, which has significant socio-economic consequences, has not been sufficiently studied in Polish academic literature. This issue is usually addressed only indirectly, that is, in the context of land markets, land-use conflicts, agricultural policy instruments, or agricultural structural changes (Bański & Stola, 2002; Bański, 2005; Marks-Bielska, 2010; Kaleta, 2013; Zegar, 2010). Studies that systematically examine non-contractual use as a distinct institutional, social, and spatial phenomenon are almost nonexistent.

The unauthorized use of state-owned agricultural land is not unique to Poland; it is observed in various forms in other countries as well. In post-socialist countries (Romania, Bulgaria, Hungary, etc.), this

situation is mainly related to the incomplete return of property and the inadequate implementation of land management systems (Hartvigsen, 2014; Swinnen & Vranken, 2009).

In Western European countries (for example, France and Italy), such cases are less common and are mostly related to abandoned land, administrative delays, or conflicts between central and local authorities (OECD, 2015; Magnan & Fournier, 2016). Research outside of Europe shows that weak protection of public property rights, particularly in the context of subsidies and land-based payments, leads to informal land use and rent-seeking behavior (Deininger & Feder, 2009; World Bank, 2017). These results demonstrate that land use without a contract is not merely a legal problem, but a broader governance failure.

The study by Marks-Bielska and Zielińska (2016) is one of the rare empirical studies in this field. Based on data from 2006-2014, the authors have shown that this phenomenon is systemic in nature and is primarily related to information asymmetry, weak control, and the complexity of organizational procedures. Based on agency theory, they highlighted the conflict of interests between the state (landowner) and the users (especially former tenants). However, this corporate governance and a new security system have not been established since 2017 (Marks-Bielska & Zielińska, 2016). In this regard, the current work tries to fill this gap by considering the period until 2024 and analyzing the use of unprotected land as a problem of systematic management, not a legal issue.

Some authors, such as Bar (2015) and Michałowski (2013), also noted that the weakness of legal mechanisms and procedural problems make it difficult to restore the territory and reduce the effective power of anxiety. Although changes have been made in legislation in subsequent years (Czechowski & Marciniuk, 2021; Suchoń, 2023), field information shows that the problem still remains and is widely spread in some regions (by Bar (2015), Michałowski (2013), and Sieradzka (2024).

Uncontrolled use has spread unevenly in terms of space. The highest levels are observed in the northern and western regions of Poland, which is due to the legacy of past state conquests and structural changes (Bański & Stola, 2002; Bański, 2005). These situations create legal restrictions, affect the structural development of savings, and the system of land utilization. This phenomenon is linked to both social and institutional factors – the legacy of the era of post-socialist transformation, domestic political relations, and competition for land resources (Kaleta, 2013; Milczarek-Andrzejewska et al., 2020; Kryszk et al., 2022). At the same time, non-fixed property laws and weak institutional transparency weaken the social and economic functions of self-savings (Marks-Bielska & Kisiel, 2017; Wilkin, 2018; Rasiński, 2018).

From a legal point of view, it is difficult to resolve the issue. Despite the increase in expenses due to illegal use (5 times → 30 times trading rights), the effective monitoring system could not be formalized (Rasiński, 2018; Wilkin, 2018; Zegar, 2010). One of the problems is the inaccurate land cadastral information and the inconsistencies between the registers (Mierzwa, 2002; Hanus, 2005).

This investigation aims to analyze the balance, causes, and consequences of uncontrolled land use in a complex manner in terms of institutional, social, and spatial aspects. Moreover, it proposes ways to increase the effectiveness of public land management by identifying the systematic causes of this phenomenon. The main question of the investigation is this: Is the uncontrolled use of land mainly due to legal gaps, or is it the result of institutional and organizational failures in the management of social activities?

2. Issues Related to the Management Of State Treasury Lands in Poland

2.1 Institutional Framework of the Administration of the Polish State Treasury's Self-Saving Real Estate Fund

NSCA combines the functions of managing social institution activities, organizing the market, and implementing clear policy. Its mandate is limited to the passive administration of the lands of the State Treasury. At the same time, it is a structure aimed at active intervention in the land market of civil savings, protection of state property rights, and the development of family savings and local lands. Enables the

realization of goals (Wilkin, 2018; Zegar, 2010). The institutional framework that regulates the activities of NSCA is mainly the law dated 1991, the law "On the formalization of the public system," and the law dated 10 February 2017, "On the Civil Registration". "About the National Center for Support" is determined by law (Czechowski & Marciniuk, 2021; Suchoń, 2023).

The size of the fund and its distribution according to space have a direct impact on the effectiveness of the administration. Since its creation, an estimated 4.7 million hectares of land have been included in the composition of the Fund, of which approximately four-fifths have been formalized through state self-saving institutions (Bański, 2005; Marks-Bielska, 2010). Fond lands are mainly concentrated in terms of space in the northern and western regions of Poland, and these regions have historically been lands dominated by large amounts of state savings.

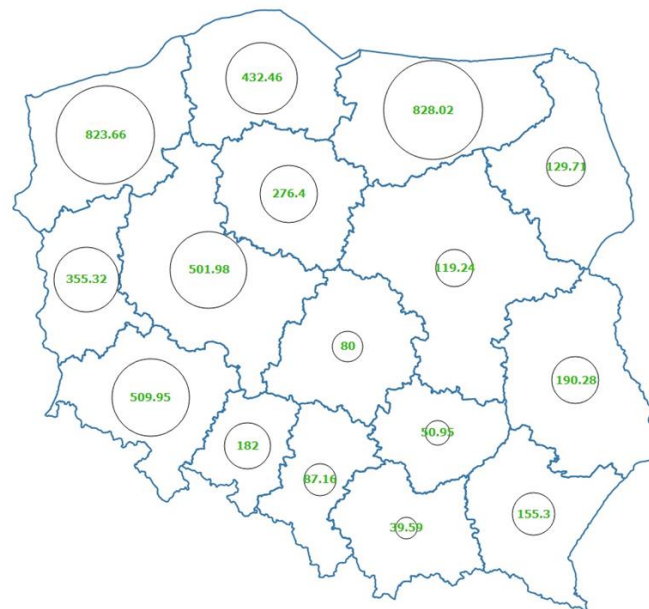


Figure 1. Spatial distribution of the Agricultural Property Stock of the State Treasury in Poland

Note: The figure illustrates the regional concentration of State Treasury land, highlighting areas with historically high shares of former state farm property.

This non-uniform sharing makes it possible for NSCA to influence the structure of the country to the same extent. For example, since there are many lands in the northern and western regions, NSCA can have a serious impact on land use there. But its role remains very weak in the southern and eastern regions. With the legal changes made after 2016, the sale of state lands was severely limited, and trade became the main form of use. This change transformed NSCA from an institution that sold the lands into an institution that managed them for the long term. At the same time, additional rights were given to the state so that, if necessary, it could intervene in private land purchase-sale processes - the main purpose being to prevent land from being collected by any means. It was to buy and protect family savings. These lands are no longer used only for personal savings. They are also used in such fields as infrastructure developments, range politics, and even national risk reduction. In other words, state lands increasingly play the role of "strategy reassurance", which makes their proper management even more important.

2.2. Non-contractual use of land

Simply put, land use without compensation is the use of land without any legal basis. This means either that the former tenants do not give up the land after the end of the contract, or that third parties generally use the land without any legal basis. In these situations, the users act either without the knowledge

of the land owner or clearly against his will. In the case of state lands, the owner of the land is the State Treasury, and it is currently represented by NSCA (formerly APA).

When you look at this issue through the prism of institutional economics, the situation becomes clearer. Here, in fact, illegal economic benefit is obtained from the reinsurance specific to the state. This shows that the control system is weak, the enforcement mechanisms are not functioning, and the signals are not set up properly (Marks-Bielska & Zielińska, 2016).

The problem is big enough. For example, in 2011, a total of 24.2 thousand hectares of land were used without compensation - this was a total of 8% of the undivided lands of the Fund. By the end of the year 2024, this figure decreased to 7.7 thousand hectares, but the problem still remains and is mainly due to past tenants who did not give up the land (95.1%) (KOWR Report, 2025).

Generally speaking, there are two main types of users:

- The first is the former tenants who did not give up the land after their contract ended. This means that they all know that they are illegal.
- The second are generally third parties who seize the land without any legal basis. In some places, this even occurs in an organized manner, unofficially referred to as “night arrests”.

This problem is not new. Even in the pre-Soviet period, there were terrible situations. Especially in the 1970s, such use was sometimes considered social and was even legalized by law in certain cases. According to the 1971 law, if the land was used for a long time, the user could acquire property under certain conditions - it did not matter whether this use was legal or not (Journal of Laws 1971, No. 27, item 250). This led to the formation of a dangerous thought in society, such as "the land of the state is ownerless".

After 1989, instead of improving the situation, it became even worse at certain periods. In the early years, there were neither proper procedures nor real mechanisms to combat this problem. Only in 2006 (ZGZ-dn-4201-41-16/1090/06/EŚ), the first general records related to this issue were implemented. According to the records at the time:

- The tenants were informed in advance, and additional payments were made if they did not transfer the land.
- Third parties were required to evacuate the land immediately, otherwise the penalty would be imposed.

But to be clear: these mechanisms were not sufficient in practice (Marks-Bielska & Zielińska, 2016).

3. Results and Discussion

Given the broad legal and organizational framework that regulates the management of the fund, one of the most persistent problems faced by the NSCA is unsecured land use. This understanding refers to the use of land without a legal basis. This includes both ex-tenants who do not return the land after the lease period ends, and third parties who use the land without any compensation or legal basis (Marks-Bielska & Zielińska, 2016).

When viewed from the perspective of institutional economics, uncontrolled land use is essentially a form of representation of social activities. This situation shows that monitoring, supervision, and information exchange between state institutions are not functioning adequately (Bar, 2015; Michałowski, 2013). Thus, the beneficiaries receive real economic benefits at the expense of the State Treasury and often take advantage of institutional loopholes, even though they have no legal basis, to operate on their own, according to existing territories. They try to collect savings payments (Suchoń, 2021).

The dynamic development of uncontrolled land use over time shows that this problem has not been eliminated despite various legal and disciplinary interventions. Its balance has changed over the years, decreasing or increasing at certain periods, but legal reforms and changes in regulatory mechanisms have

not fully resolved the problem. Figure 2 shows the changes in the overall volume of land areas used without legal basis, based on the annual accounts of APA and NSCA.

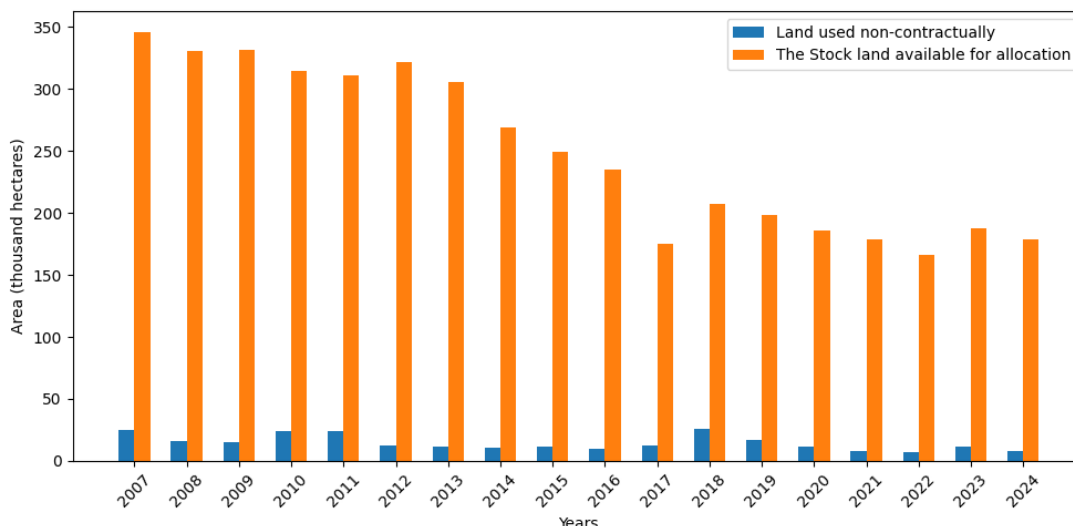


Figure 2. Area of agricultural land used non-contractually within the Stock, 2006–2024.

The figure is the volume of the land areas that are included in the Natural Investment Real Estate Fund of the State Treasury and can be divided in this period (2007–2024), and the land that can be used without comparison. It shows the change in the areas (minimum hectares). This information allows us to see both how the state land fund has changed over time and the amount of unconditional use. A serious decrease is observed in the overall volume of land areas that can be divided in the analyzed period. From 345.6 million hectares in 2007 to 178.3 million hectares in 2024. This means a reduction of approximately 49% and is mainly due to the sale of lands, putting them into permanent use and directing them to non-local savings purposes. The sharpest decrease occurred after 2013, which coincides with the intensification of legislative and institutional changes.

But here is the interesting side: regardless of the decrease in the state lands, the use without compensation does not decrease in the same way. This area is variable over the years, but does not show a steady downward trend. For example, in the years 2007–2011, this indicator was at the level of 24–25 thousand hectares. Then, a gradual decrease is observed and drops to the lowest level in 2021–2022 (8.1 and 7.3 thousand hectares, respectively). However, there is an increase again in the 2023rd year (11.2 thousand hectares), and in the 2024th year it will decrease again to 7.7 thousand hectares.

This is the main point: the decrease in the general land fund does not cause the unpaid use to disappear at the same pace. In other words, this problem does not depend on the overall amount of land. The share of unused land varies from year to year, and this shows that the problem has structure and character. The following tendencies also confirm this: no matter how many laws are changed and the land of the state decreases, the use without compensation will not disappear. This no longer appears as a separate situation, but as a system problem. It is not possible to solve this with only anxiety. Here, supervision systems, enforcement mechanisms, and inter-institutional coordination should be seriously strengthened.

Empirical information shows the same thing: although the overall area decreases after legislative changes, the problem does not disappear completely. On the contrary, it took on a more “deep” and continuous character. This shows that the issue is not just a matter of law; it is related to the gaps in the administration (Marks-Bielska & Zielińska, 2016; Sieradzka, 2024).

Another important issue is the identity of the users. Information shows that a large majority of cases of non-required use are not due to third parties, but to past tenants. That is, with those who do not give up the land in due time. Figure 3 shows the share of these two groups in the overall structure, based on NSCA information.

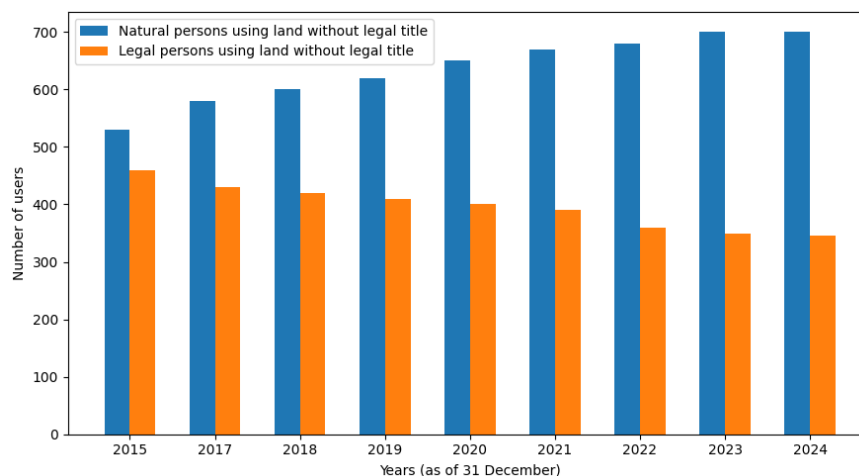


Figure 3. Structure of non-contractual land use within the NSCA by user category.

Information shows that the number of physical persons has increased continuously in this period. Although there were 530 people in the year 2015, this figure approached 700 in the year 2024. This increase shows that, as the use of land without compensation increases, it spreads among more and more individual users and becomes one of the "normal" problems of the system.

In contrast, the number of legal entities shows a decreasing trend – falling from approximately 500 to 345. This, it is believed, will result in more effective functioning of the supervisory mechanisms against corporations, more sensitivity to their financial concerns, and easier functioning of governmental institutions with their institutional users. It depends on knowing. These two trends together represent a very important change. The problem is no longer tied to large structural users as it was before, but is rather "broken down" into individual users. This makes the situation more difficult in terms of management. Because the same supervision and punishment mechanisms do not have the same effect on both groups. In other words, even if the overall land area decreases, the number of users increases. This shows that the problem has become more widespread and fragmented. In this case, standard approaches do not work; more targeted strategies that suit the user type are requested. This structure also shows that the issue is not accidental land capture. On the contrary, this is essentially a system problem related to trade relations, execution of contracts, and monitoring mechanisms after the contracts.

As a result, unconditional exploitation opens up domestic land markets, affects the development of the savings structure, weakens trust in state institutions, and strengthens the protection of state property rights (Marks-Bielska, 2010; Karwat-Woźniak et al., 2024).

In response to the growth of this problem, stricter and harsher measures began to be implemented in legislation. For example, with the amendments made into law in 2011, compensation for use without compensation was determined at 5 times the level of the right to be granted (Michałowski, 2013). Later, these concerns were further strengthened, and in 2019, 30 times the right to trade started to be implemented if the land was not transferred (Suchoń, 2023). But here is the main problem: although the turnover increases, the problem is not completely solved. Incompatibilities between information systems, poor coordination, and limited disciplinary capabilities reduce the effectiveness of these measures (Mierzwa, 2002; Hanus, 2005). This situation is not unique to Poland. Many problems are also observed in post-



socialist countries. Fragmentation of land records, weak control, and information asymmetry further deepen these problems. From a management perspective, this is clearly an "accountability failure" - that is, the functioning of accountability and supervision mechanisms (Hartvigsen, 2014; Swinnen & Vranken, 2009). Without effective oversight and performance-based management tools, the principles of transparency and accountability remain on paper.

3. Conclusion

Uncontrolled use of state lands remains a persistent and structural problem in the management of social activities in Poland. Regardless of legislative and institutional changes, this phenomenon has not completely disappeared and still hinders the effective administration of state territories. Information shows that, although the land area used without compensation decreases, this decrease does not parallel the decrease in the general land fund. So the problem is not just a matter of balance – it is more a result of institutional and procedural conflicts. The most important structural change is in the profile of the users. The increase in the number of physical persons shows that united supervision mechanisms are no longer sufficient.

Simply increasing costs will not solve the problem. On the contrary, more effective management systems, integrated information bases, and management approaches adapted to user behavior are required. In other words, the approach must change. It is necessary to move from a reactive (penalty-oriented) model to a proactive (management-oriented) model.

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