

Markus Cerman  
University of Vienna

## **Social structure and medieval land markets in East-Central Europe**

### I. Introduction

This paper is motivated by recent studies that refer to the importance of the increasing integration of (rural) factor markets<sup>1</sup> for medieval economic growth and for enhancing the flexibility of the later medieval economy.<sup>2</sup> It will take approaches to explain regional differences in the integration of land markets in later medieval England in terms of institutional influences as a starting point and will try to assess the possible impact of feudal lords and villages communities, as reflected in normative documents and village customs (*Weistümer*), for Central and East-Central European areas. In section III, the analysis will address existing hypotheses about the opposition of feudal lords to flexible transactions with subject land in the Later Middle Ages in two respects. Quite contrary to earlier views, recent studies demonstrate that lords took actions to increase the flexibility of rural land markets particularly in South Western Germany in the thirteenth and fourteenth centuries. Therefore, I will attempt to present some empirical evidence and assess the possibility of independent land transactions with peasant farmland for some East-Central European regions, in particular the historical Czech Lands, Southern Poland and Brandenburg. Secondly, the analysis will focus in particular on changes in rural social structure and their impact on further development of land markets. It will be argued that certain segments of land were particularly suited for flexible transactions. This was an important factor in the spread of sub-peasant smallholders and cottagers, which then contributed strongly to the growth of rural land markets. In the remaining parts (section IV and appendix) some quantitative empirical evidence is presented to provide a reference for medieval rural social structure in some of the areas investigated (appendix) and to simply illustrate - also as a background information - the findings of recent studies on early modern subject land transactions that seriously question earlier assumptions about landlord pressure and subject aversity to engage in property transactions in early modern East-Central Europe (section IV).

There is good empirical evidence for later medieval England that the peasantry but also smallholders used the land market to invest additional income or to build up assets that were then subsequently sold in times of hardship or stress when other forms of insurance, such as credit for consumption needs etc., were not or no longer available.<sup>3</sup> Bruce Campbell suggested that "the very readiness with which the peasantry was able to liquidize its assets, selling off land to buy food, may have been one of the factors which gave this community so much resilience" and that "the land market is seen as one of the means by which peasant society maintained itself a state of dynamic equilibrium."<sup>4</sup> Yet, while this is particularly evident for South Eastern England, studies also show that the integration of land markets was not as advanced in other parts of thirteenth- or fourteenth-century England. In systematic surveys, at least two distinct forms of transaction with customary land emerge. One type can be characterized by a high frequency of inter-vivos transfers of mostly small areas of land, representative for an active and relatively unconstrained land market. The other, with less frequent land transactions, determined mainly by post-mortem

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<sup>1</sup> Britnell 1996; Epstein 2000; Snooks 1995.

<sup>2</sup> With particular reference to land markets in later medieval England Bailey 1998; Campbell 1984; Hatcher/Bailey 2001; Harvey 1984; Schofield 2003.

<sup>3</sup> See for these mechanisms in Detail Bailey 1998; Hatcher/Bailey 2001; Schofield 2003.

<sup>4</sup> Campbell 1984: 93, 96, 120 (quotation), 127, 131.

transfers of full peasant or smallholder farms, was significant for areas of the Midlands.<sup>5</sup> Recent approaches to explain this difference<sup>6</sup> bear direct relevance to the following case study on areas of Central and East-Central Europe.

These studies offer an explanation in terms of institutional and economic arrangements that could either favour a full integration of land markets or could lead to a framework that made flexible land transactions difficult. Important institutional influence on the development of land markets can be expected from feudal lords and village communities.<sup>7</sup> Due to the stronger reliance on open field agriculture and a traditional demesne economy in some Midland areas, manors as well as village communities expected that the cooperation in agriculture and customary labour rents could be threatened if peasant property structures became more unstable. Eastern England, on the contrary, displayed more diversified economy in terms of market orientation of both, peasant and demesne agriculture. Institutional controls regarding land markets were less strict, because they were not seen as risk for the economic structure.

A further important factor for manors was a possible increase in administration and negotiation costs due to independent land market transactions. This, as well as other conditions, such as differences in peasant property rights or personal status could lead to deviations from the regional patterns described. Moreover, some church institutions seemed to adopt a more sceptical approach towards peasant land markets in their manors.<sup>8</sup> Thus, what we observe are not distinct patterns of land transactions but rather a land market with a variable degree of institutional control.<sup>9</sup>

## II. Norms and institutional control for land transfers in Central European areas

The formation of land markets in Central and East-Central Europe has been studied mainly for the early modern period and the nineteenth century.<sup>10</sup> For the Middle Ages, studies have assumed that the development of land markets depended on the opportunity to divide peasant farms.<sup>11</sup> Often, land transactions were equated with 'inheritance practices' or with 'inheritance'<sup>12</sup>, yet the existence of land markets was never explicitly rejected. Higher levels of independent land transactions, which were assumed for rural areas that revealed a stronger social and property

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<sup>5</sup> Harvey 1984: 346f; Schofield 2003: 57-66; Smith 1998: 359f; Whittle 2000: 89f.

<sup>6</sup> Whittle 1998; Whittle/Yates 2000: 15. See also Schofield 2003: 52ff.

<sup>7</sup> Schofield 2003: 63-76. The following analysis refers mainly to the influence of these institutions. For a more extensive list of arrangements contributing to the institutional framework of land markets cf. van Bavel/Hoppenbrouwers 2004: 25-28.

<sup>8</sup> Harvey 1977: 302f; Harvey 1984: 328-338, 345f; Schofield 2003: 12-22, 66, 68f; Smith 1998; Whittle 2000: 89, 91-93.

<sup>9</sup> Harvey 1977: 295, 299-306; Schofield 2003; Smith 1998: 352f, 355, 359f; Whittle 1998: 26, 60; Whittle 2003: 91-93; cf. also Razi 1980; Razi 1993. There is significant debate about the commercial character of land transactions in pre-industrial European society. For a closer analysis of this debate and possible approaches to define land markets cf. van Bavel/Hoppenbrouwers 2004: 17-25; Brakensiek 2003; Harvey 1984; Smith 1984; Whittle 2000: 93-96 and the seminal discussion in Levi 1986. See also, of course, van Bavel's contribution to this conference.

<sup>10</sup> Cf. as surveys and important recent contributions: Brakensiek 2003; Fertig 2001; Levi 1986; Sabean 1990; Štefanová (in print); Zeitlhofer 2001. Already in the 1960s, however, empirical studies in former Czechoslovakia led to important advances in the discussion of the development of a subject land market in sixteenth and seventeenth-century Bohemia. See particularly Procházka 1963.

<sup>11</sup> Lütge (1963: 80f) is one of the many representatives for the view that various sorts of sub-peasant and smallholder groups (he particularly refers to the Southern German/Swiss type of quarter hides or 'Schupposen') were mainly established by subdivisions of peasant farms. For the connection between property stratification and practices of partible or impartible inheritance see for Lower Rhine areas in the later Middle Ages Reinicke 1989: 233, 241f. Cf., however, also the opposite evidence for Norfolk, where impartible inheritance rights could not prevent subdivisions of customary land in an active land market: Williamson 1984: 100.

<sup>12</sup> Cf. Lütge 1963: 81-89.

differentiation, were either attributed to institutional arrangements, in particular to the attitude of feudal lords to accept subdivisions of their tenants' holdings and *inter vivos* or *post mortem* partible inheritance practices (in other words: 'weak' manorial control), or to the influence of urban capital stimulating land market activities around towns or urban centres.<sup>13</sup>

The fact that there are many references to landlord legal restrictions on independent transactions with subject land throughout the Middle Ages, even if held in hereditary tenure<sup>14</sup>, cannot be ignored.<sup>15</sup> The literature consequently interpreted the fact that the right to subdivide holdings was established as a sign of the strengthening of subject rights in some regions or in certain periods.<sup>16</sup> There is a general assumption underlying this interpretation that peasants wanted to subdivide holdings whereas lords did not want this to happen. Yet, the existing literature is certainly not without contradiction with reference to this point. Already Friedrich Lütge indicated that also landlord interests could vary. Apart from firmly resisting independent sub-divisions or land transactions, feudal lords did realize that a larger number of holdings could increase total revenue. Thus, the easy assumption of a plain dichotomy of interests, sometimes nourished by the policy of particularly harsh lords or by widespread restrictive regulation, can easily be refuted by the fact that feudal lords themselves were involved in systematically subdividing peasant hides in several Central European areas in the thirteenth and fourteenth centuries to increase revenue. Detailed research on structural changes in the manorial systems of South Western Germany and Austria has shown that there were incentives for lords to enhance the flexibility of subject land transactions. With the gradual abolition or reduction of the demesne economy, lords aimed at a stabilization of manorial structure and at additional income from a rising number of subject holdings with the help of more flexible land markets that would allow subdivisions or the erection of smallholdings. While in this respect, still non-market feudal mechanisms of land transfers are involved (as far as clear border lines exist), there can be little doubt that lords reacted to - or their action helped to establish - independent peasant land transactions.<sup>17</sup> Also for peasant households, smaller units could mean a better position to specialize or intensify production.<sup>18</sup>

The important issue here is the effect of seigneurial control of these processes. In Central and East-Central Europe, manorial intervention in land transactions was theoretically possible, because subjects formally had to seek the lord's consent for *inter vivos* transfers and sales of land or holdings held in hereditary tenure; this also refers to the possibility of mortgaging the property.<sup>19</sup> In case when subdivisions by peasants were basically allowed among heirs, lords could maintain control or restrict the right by nature of the need for consent<sup>20</sup> or by explicitly limiting the number of times a standard holding could be subdivided (or alternatively by setting a minimum size beyond which farms could no longer be subdivided). Very often, the partition of a

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<sup>13</sup> Engel/Zientara 1967: 78; Genicot 1976: 264; Irsigler 1983: 304-306; Lütge 1963: 86. Rösener 1991a: 199f, 212; [www.lexhist.ch](http://www.lexhist.ch), art. Bodenmarkt, accessed May 31st, 2005.

<sup>14</sup> The argument and the evidence of this paper refer particularly to subject land held in hereditary tenure. In the areas of Europe analyzed here, this form of tenure came to dominate rural landholding from the twelfth and thirteenth centuries. Hereditary tenure derived from various different original tenurial rights, whose specific characteristics might still have influenced the concrete content of property rights over peasant holdings in the High and Late Middle Ages. A certain process of standardization of property rights of hereditary tenure, regardless of the origin, can be observed during the later Middle Ages. Security of subject property can be rated high in this respect in the regions analyzed here.

<sup>15</sup> Wiessner 1934: 160. Examples in Rösener 1991b: 520, 526.

<sup>16</sup> Lütge 1963: 86; Wiessner 1934: 163f.

<sup>17</sup> Cf. particularly the general discussion in van Bavel's contribution to this conference, esp. pp. 3-5.

<sup>18</sup> Dopsch 1983: 254; Irsigler 1983; Lütge 1963: 86; Niederstätter 1996: 112; Rösener 1991b: 509, 520ff.

<sup>19</sup> Cf. e. g. for medieval Germany and Austria Fresacher 1955: 22; Lütge 1963: 82f, 84f; Wiessner 1934: 168; Winiarz 1906: 28-31.

<sup>20</sup> Rösener 1991b: 526f; Wiessner 1934: 165.

farm was limited to four new holdings or the minimum size was set at a quarter hide.<sup>21</sup> It can be interpreted as a sign of flexibility, if heirs could be given different portions of the parental holdings, i. e. if divisions did not always have to create new farms of equal size.<sup>22</sup>

In other cases it was ruled that holdings established in the course of subdivisions must render, in sum, the same dues as the original farm or that each of them had to be able to pay a minimum amount of dues.<sup>23</sup> Sometimes, the new smaller units were mutually held responsible for the dues.<sup>24</sup> In case of unpaid dues, lords even maintained the right to reunite a holding until all debts were paid.<sup>25</sup>

A possible means to influence the development of a market in subject land was the collection of entry fines. In medieval Austria, both partners - seller and buyer - could be liable to pay a fee.<sup>26</sup> As yet, I am not aware of cases, in which lords chose to set entry fines prohibitively high in order to limit the number of transactions. In England, this policy was adopted for the manors of Westminster Abbey to prevent rising administration costs from land market activities. These fees were also collected for leasehold arrangements among peasants.<sup>27</sup> By the sixteenth century at the latest, such payments could form a significant source of revenue for feudal lords in individual estates in several Central European territories (such as Bavaria or Upper Austria), but they were not particularly common, or disappeared with the spread of hereditary tenure in East-Central Europe.<sup>28</sup>

It is difficult to establish, whether fines that were collected for subdivisions were installed as additional cost to keep peasants from dividing land or whether they simply helped to increase feudal lords' revenues from land market transactions they were no longer able to control. Yet, the rule of a custom that if a holding was divided into nine pieces each of them had to surrender a fine - in this case the best livestock (*Besthaupt*) or a money equivalent - looks like a prohibitively high levy.<sup>29</sup> Further evidence that such fines were often intended to consolidate subject land property can be drawn from another regulation of this custom, according to which the owners of the individual parts of a subdivided farm had the first option to buy the plots of the others.<sup>30</sup>

Many of the regulations quoted specifically refer to cases of land transfers and sales within the process of inheritance proper. Hereditary tenure, however, did include the right to sell the property, i. e. to engage in purchases and sales on the land market outside the usual process of inheritance transfers. Almost everywhere in the territories analyzed here, a sale of a holding held in hereditary tenure was bound to two general conditions: first, that there must not be any disadvantage for the feudal lord resulting from the sale and secondly, that there must be a qualified successor.<sup>31</sup> As common in every transfer case, the transaction was usually bound to the lords' consent. In many manors the lord maintained the privilege that he or she should be

<sup>21</sup> Rösener 1991b: 509; Weizsäcker 1913: 511; Wiessner 1934: 164.

<sup>22</sup> Wiessner 1934: 167 (regulation dated 1435).

<sup>23</sup> Cf. for an example of 1424: Wiessner 1934: 165; for other cases *ibid.*: 165.

<sup>24</sup> Wiessner 1934: 166ff. The respective regulations are dated 1417 and 1477.

<sup>25</sup> Wiessner 1934: 167 (dated 1432).

<sup>26</sup> Wiessner 1934: 168f, 178-181; Winiarz 1906: 33; for Salzburg Dopsch 1983: 254f; Klein 1965: 309; for Carinthia Fresacher 1954. The respective terms are 'ableit' (for the seller) and 'anleit' for the purchaser.

<sup>27</sup> Harvey 1977: 299-306, 309; Smith 1998: 355f. For the importance of entry fines as source of manorial income in medieval Eastern England cf. Schofield 2003: 66f; Whittle 2000: 90. Also village communities could occasionally influence the size of entry fines (Schofield 2003: 71).

<sup>28</sup> Except for cases of individual estates in Bohemia and Upper Lusatia, entry fines ('Laudemien') seemed to exist only in Silesia and might have been a sixteenth-century innovation. Cf. Opitz 1904.

<sup>29</sup> This regulation of 1477 in Wiessner 1934: 166

<sup>30</sup> Wiessner 1934: 167, 251.

<sup>31</sup> Klein 1965: 309; Weizsäcker 1913: 511, 539f; Wiessner 1934: 168, 187. Explicitly stated e. g. in the fifteenth-century custom of Hippersdorf or Wiellendorf in Lower Austria. Winter 1896: no. 94, 617, l. 20-25; no. 147, 1015,

offered the property first if a peasant wanted to sell the farm.<sup>32</sup> Otherwise, the seigneurial regulations mentioned above in terms of property subdivisions must have been valid for inter vivos sales as well.

Apart from feudal lords, also village communities could exert some influence on the development of subject land markets. In many regions, especially in the compact village settlements structures of East-Central Europe, the formal act of sale usually took place during the sessions of the village court or the manorial court, which secured some influence of the village community.<sup>33</sup> The control of common resources or the attempt to reduce social tensions within village represented two possible motives for interventions to restrict land market activities.<sup>34</sup> Sometimes, village communities collected payments, usually in kind, for the transfer of property.<sup>35</sup>

It seems to emerge that possible institutional control over the land market, exerted mainly by feudal lords but also by village communities was a widespread phenomenon. Seigneurial norms and actions but also village customs indicate that there were restrictions on subdivisions of peasant open field land, which would have been an important prerequisite for more flexible land acquisition other than the sale and purchase of whole farms or subject holdings. Even where allowed, the terms of divisions of open field land and of trade in individual parts could be regulated. Of course, both approaches were as much a reaction to independent subject transactions, which must have been widespread, as an attempt to retain or regain administrative control over these processes. Yet the hypothesis that an improvement in the integration of markets in subject land was a result of, among other factors, quite variable institutional approaches in the thirteenth and fourteenth centuries seems firmly established.

### III. Social structure and the segmentation of land markets

Feudal lords in Central Europe were not simply opposed to subdivisions, but they themselves promoted them e. g. in various parts of Southern Germany and helped to establish sub-peasant holdings (smallholders and cottagers or crofters) that became a main element of a further dynamic development of land transactions. This was achieved by subdivisions of peasant hides, the dissolution or reduction of demesne farms and by new clearances.<sup>36</sup> In fourteenth and fifteenth-century Salzburg, either existing peasant farms were subdivided or small parts were separated from the original holdings to establish new smallholdings or cottages. In the land and estate registers of the Salzburg bishops of the later fifteenth and beginning sixteenth centuries, long lists of cottagers are entered for the first time.<sup>37</sup>

The deliberate establishment of smallholders on peasant open field land also occurred in East-Central European territories. In a newly founded settlement of the Archbishop of Prague towards the end of the thirteenth century, 41 hides were laid out, but the 42nd was reserved to

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l. 16-19. There is unanimous agreement that the definite right of subject tenants to sell a farm was widely respected in most regions of East-Central Europe in the Late Middle Ages.

<sup>32</sup> Fresacher 1954: 148; Lütge 1963: 82; Wiessner 1934: 168. A customal from western Germany of 1024 grants the right to sell a hereditary holding, if the owner was in need, but it first had to be offered to a close relative ("prius proximis heredibus cum testimonio ad emendum") and only then it could be sold freely (Wiessner 1934: 159f).

<sup>33</sup> Examples, e. g., in Austrian customals listed by Winter 1896: 578, no. 89, l. 38-40; 666, no. 100, l. 31-35; for East-Central Europe, contracts of land transfers were entered in village land transaction registers. See several examples quoted below.

<sup>34</sup> Cf. Schofield 2003: 70-72. See for South Western Germany Grees 1975; Rösener 1991b: 518.

<sup>35</sup> Wiessner 1934: 180. For payments in medieval Moravia: Novotný 1958: 41.

<sup>36</sup> Rösener 1991b: 467ff.

<sup>37</sup> Dopsch 1983: 253f.

accommodate the households of several *subsides*, each of which should own two *morgen* of land.<sup>38</sup> Also in the property of the Prague monastery Břevnov near Rajhrad 1406, smallholders were situated in the middle of peasant open field land.<sup>39</sup>

This process was part of the fundamental change in the agrarian structure in this period and was systematically initiated by lords trying to compensate for losses of feudal rent in real terms, but it may have met subject interests or their pressure for more flexible access to land at the same time, as the increased productivity of subject farms would secure the subsistence of holdings smaller than a hide. With the dissolution or reduction of demesnes, lords needed less labour services and the remaining seigneurial farms were managed more flexibly by the available supply of wage labour or labour services were performed by smallholders without ploughing teams.<sup>40</sup> Sources also indicate that this policy was a reaction to population growth.<sup>41</sup> As the conditions made structural changes necessary, the systematic actions of lords to reorganize peasant holdings and establish smallholders is thus regarded as an acknowledgement of a fact and the attempt to bring the process under seigneurial regulation and control.<sup>42</sup> The decline in the number of full peasant holdings and the rise of smallholders and holdings of parts of hides (cf. table 1) that occurred mainly in the densely populated areas of earlier settlement represented a central change in rural social structure until the fourteenth century in Central Europe is evidence for this seigneurial policy.<sup>43</sup>

Table 1: Development of subject holdings in selected regions of South Western Germany and Switzerland

region	period	No. of peasant hides	No. of smallholders	cottagers with land
Muri	ca. 1150	24	67	--
	ca. 1300	--	190	--
Beromünster	1173	4 + 1 curia	--	--
	ca. 1300	--	20	--
Winterberg	1220	6	2	--
	1290	6	3	--
	1331	3 + 4 half hides	4	3
	1344	1 + 6 half hides	7	6

Source: Rösener 1991b: 511, 515, 525.

This development supported the formation of dynamic conditions in village social structure that could lead to a higher mobility of landed property and must have contributed to later developments of more flexible subject land transactions. First, weaker property rights on demesne land let out must have increased property fluctuation until rights became uniform, and, secondly, new social strata of sub-peasant smallholders were systematically established. The division of hides continued in larger number in some of these areas and was possibly carried out by the peasants independently.<sup>44</sup>

<sup>38</sup> "ex quibus duo lanei inter quadraginta duos subsides dividi debent, per duo iugera pro quolibet". Novák: Formulář, 203, Nr. 264, dated 1284-1290; cf. Graus 1957: 217.

<sup>39</sup> There were twelve hides, "quia 12us laneus divisus est inter subsides duos". Emler 1881: 210.

<sup>40</sup> Rösener 1991b: 520.

<sup>41</sup> "Mansi autem isti sive diurnales multis divisi sunt sive propter utilitatem, seu ob multitudinem hominum; ab initio autem non erant sic, sed pariter priusquam monasterium hic fieret." (dated 1150). Quoted from Rösener 1991b: 526.

<sup>42</sup> Grees 1975: 68; Rösener 1991b: 520f.

<sup>43</sup> Rösener 1991b: 509ff.

<sup>44</sup> Grees 1975: 69f, 179; Rösener 1991b: 512, 521; Störmer 1983: 37. For Switzerland cf. for the increasing dynamics of subject land transactions in the later Middle Ages [www.lexhist.ch](http://www.lexhist.ch), art. Bodenmarkt and art. Agrarverfassung, accessed May 31st, 2005.

It is clear from fourteenth-century sources that there also was a qualitative change in land transactions. In some manors the registration of regular holdings was only maintained as a measure for the manorial administration to estimate the level of dues, while instead individual peasant holdings, farms, smallholdings and cottages consisted of a variety of different plots of land that must have been traded individually and independently from the farms they originally belonged to.<sup>45</sup> Some lords carried out administrative reforms that made the owners of the original messuages of the now partitioned hides responsible for all dues, also from those households that were established on parts of the original holdings, but this, of course, was vulnerable to many forms of subject embezzlement.<sup>46</sup> The main reasons for action were the expectation of growing administrative costs, the danger that subdivided holdings could no longer meet the required dues and obligations, that they would be too small to secure household subsistence and finally that it would be easier to alienate land from feudal lords.<sup>47</sup> In an estate register (*terrier, Urbar*) of 1323/28 in Upper Franconia, the difficulty of administration on both sides is captured by the entry that the peasants could no longer say "quis eorum habeat mansum vel dimidium aut partem mansum".<sup>48</sup> This was the development, manorial institutions reacted to with frequent bans on independent subdivisions not only of peasant hides, as before, but also of smallholdings, or with the rule that partitions could only be carried out with manorial consent.

Several concrete examples of how this control was exerted in late fifteenth and early sixteenth-century South Western Germany are provided by Sreenivasan's study on the property of the monastery of Ottobeuren.<sup>49</sup> Though most of his examples concern divisions in the course of family property transfers, they show that the formal petitioning and granting of consent did take place and that the seigneurial administration did impose conditions on individual transactions related to the continuity of rent levels and a later reunification of holdings, which, naturally, were not always obeyed in the long run.<sup>50</sup> Cases like Ottobeuren and the widespread bans are evidence for the fact that the integration of rural land markets with subject land was not a smooth or linear progress, but may have strongly depended on what rural institutions might have regarded as acceptable development in relation to the background of changing social and economic conditions. Significant changes in subject land transfer patterns over time, as reflected in empirical studies investigating land transactions in certain regions over many decades in the early modern period represent a concrete manifestation of this.<sup>51</sup>

Even if the analysis of these processes sheds some light on the older idea of general seigneurial opposition to more flexible land transactions, the possibility of subdivisions was not the only source for a subject land market in Central and East-Central Europe. Just a part of the smallholder farms and sub-peasant holdings, that formed the core of more active independent land transactions, were established on open field land. It is therefore necessary to address the formation of land markets in Central and East-Central Europe also from a different angle, and this will contribute to review existing opinions about the importance of manorial structures for this process.

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<sup>45</sup> Rösener 1991b: 513, 522f, 527.

<sup>46</sup> Rösener 1991b: 526-529.

<sup>47</sup> Wiessner 1934: 164; cf. for Switzerland [www.lexhist.ch](http://www.lexhist.ch), art. Bodenmarkt, accessed May 31st, 2005.

<sup>48</sup> Jäger 1996.

<sup>49</sup> Sreenivasan 2004: 79-86.

<sup>50</sup> "that this subdivision occasion no prejudice [precedence? - M. C.] to or diminution of the majesty, freedom, prerogatives, annuities revenues, tithes, and rents of the monastery and overlord, as if this subdivision had not been permitted" (from 1457) quoted in Sreenivasan 2004: 80.

<sup>51</sup> Cf. Grulich (in print); Sabeau 1990; Štefanová (in print); Velková 2002; Zeitlhofer 2001. See also section IV. below.

As a consequence, the following analysis of the connection between sub-peasant strata and land markets concentrates on the possible segmentation of land markets<sup>52</sup> and on the significance of areas, for legal or other reasons, outside the open field land of peasant farms. In this respect, already Léopold Genicot referred to the significance of "properties that are situated at the margin of a village".<sup>53</sup> These represented an important element of flexibility in land supply, forming niches for independent action even in the case of restrictive lords, and together with economic factors strongly influenced the establishment of sub-peasant strata.

While open field peasant farmland could be opened to more flexible dealings by actions of feudal lords and, of course, also by illegal transactions of the subject population, there also existed land from seigneurial or other land reserves. Because of the legal status of these types of land, they could be traded more flexibly. There existed a division between open field land directly connected by custom to the message of a peasant farm and land not directly attached to this holding. This is particularly evident in Austria, Western Germany, Bohemia and Moravia, Upper and Lower Lusatia and Brandenburg by terms like *Überlend*, *Überacker* or *Überschar* and *walzende Gründe*. These terms refer to those parts of the village land that were not yet integrated into the measured open field land of the peasant hides.<sup>54</sup> They often originated from deserted peasant farms.<sup>55</sup> Other sources for this type of land were common land, newly acquired or cleared land, land owned by the lords, the village bailiff and the parish priest. Sometimes also land was made available by individual peasants.

These areas were particularly important for the establishment and land transactions of sub-peasant strata. Rather than to understand smallholders and cottagers simply as the result of subdivisions of peasant farms<sup>56</sup>, they sometimes formed distinct social groups, legally and socially clearly separated by the amount and type of land they held. In many regions investigated here, smallholders and cottagers did not own land in the village's open fields, but in areas legally separated from the village land integrated into the open field system and divided into hides during the settlement process.<sup>57</sup> By the sixteenth century, these sub-peasant households represented a significant minority e. g. in Southern Saxony, Upper Lusatia, Lower Silesia and Northern Bohemia and Moravia (see e. g. tables A.2 and A.8 in the appendix).

It has to do with the scarcity of medieval sources on land transfers that the analysis has to rely on indirect indicators for land market activities and flexible niches within the existing normative environment. For the regions of present-day Austria, the Czech Republic, Germany and Poland, of which most of the empirical evidence originates, there are only very few manorial and village land transfer registers available (*Grund-, Schöppenbücher*).<sup>58</sup> The earliest entries date from the

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<sup>52</sup> See for a full list of influences (such as property rights, personal status of holders etc.) contributing to a segmentation of land markets van Bavel/Hoppenbrouwers 2004: 19f.

<sup>53</sup> Genicot 1974: 264. For the importance of parcels outside standard customary holdings for land market activities in Southern England see Summary report, The peasant land market in Southern England, 1260-1350 ([www.dur.ac.uk/r.h.britnell/Winchester%20before%201350.htm](http://www.dur.ac.uk/r.h.britnell/Winchester%20before%201350.htm), accessed May 31st, 2005).

<sup>54</sup> Cf. in general Brakensiek 2003: 272; Robisheaux 1989: 79-83.

<sup>55</sup> Grees 1975: 143, 145.

<sup>56</sup> In favour of the argument of sub-divisions for various Central European areas: Boelcke 1967: 85; Brankač 1990: 55; Kunze 1961: 166-168; cf. also Grees 1975: esp. 66ff.; Graus 1957: 114ff, 233ff; Ribbe 1981: 38f; Weizsäcker 1913: 485ff, 510ff. For a critique of this argument and material against this notion that peasant properties in full hides dominated in the medieval Lusatias see also Brankač 1990: 82.

<sup>57</sup> Blaschke 1967: 182f; Boelcke 1967: 82, 87, 89; Helbig 1973: 12f; Hoffmann 1989: 254f; Ludat 1942: 128; Martens 1997: 368; Matěj 1970.

<sup>58</sup> For the significance of these registration processes cf. in general van Bavel/Hoppenbrouwers 2004: 26f. All land transactions in subject lands are formally registered as sales already in the earliest available land transfer registers, but the information given varies from region to region and period to period. This variation, unfortunately, also refers to prices and size of land (in regional measures). Thus, the value of quite frequent price statements (to avoid later troubles) is extremely downgraded by the missing information on size and equipment of holdings. Sale contract



fifteenth century, with very few earlier exceptions mainly for town books. Apart from archival examples and editions of fifteenth- and early sixteenth-century land transfer registers, the evidence has to be reconstructed from changes over time evident in cross-sectional sources (estate registers, *terriers* or *Urbare*) or qualitative source materials.

To begin with, the analysis will explore the potential of transactions with peasant open field land for the growth of a land market. One important indicator for flexible arrangements would be whether individual fields or smaller pieces of land could be permanently alienated from peasant (standard) holdings. The way this could be done was subject to enormous regional differences. The norms quoted above refer to divisions of holdings and these did occur by (post-mortem) inheritance transactions but also by sale in many regions of East-Central Europe during the fourteenth and fifteenth centuries. Very often, these arrangements were made in cases of contractual retirement between the old owner and the purchaser.<sup>59</sup> In other cases, specific post-mortem inheritance arrangements might have played a role. For instance in 1479, in the village of Krzemienica in Red Russia, a farm was divided among a widow and her new husband, and her late husband's son and daughter.<sup>60</sup> Finally, individual parts of farms were sold because of debt or frequently without any special reasons.<sup>61</sup>

More often, smaller pieces of land were separated from farms to establish new sub-peasant households. When Jorgen Hedlin sold his farm in Northern Bohemian Frýdlant in 1493, he received some land - less than a twelfth of a hide - in the farm's garden from the purchaser.<sup>62</sup> A similar process might have taken place for the sub-peasant household of a woman called Frommteryne that was adjacent to the peasant farm of a man with the same family name, Fromtir, in a village of this manor in 1381.<sup>63</sup> In the manor of the Upper Lusatian monastery of Marienstern, there were sub-peasant holdings in two villages in 1374 that were possibly established in the same manner. In Berzdorf a. d. E., "fili Bohemi" owned a cottage with some land, while a person with the same name, Hempil Beme, was the owner of a farm in the same place. Next to the farm of Michil Bernhardi in Cunnewitz was the smallholding of Wawirz Bernhardi.<sup>64</sup> Comparable cases can be found in the estate registers of the Brandenburg monastery of Lebus<sup>65</sup> in 1405 and the monastery of Zinna in 1480.<sup>66</sup> There are numerous hints for individual (arable) fields and plots of land in the property of sub-peasants. These could be part of peasant hides, as terms like "ager", "aree" oder "field" would suggest.<sup>67</sup> In the Rajhrad property of the Prague monastery of Břevnov, a certain Mykul worked "an arable field" in 1406.<sup>68</sup> Several pieces of arable land and meadows belonged to independent sub-peasant households or were listed separately as additional property of peasant farms in the manors of Frýdlant and Žary in 1381 (see tables 2 and 4). Such transactions cannot be inferred only from land distribution in estate registers, but can also be directly proved by village land transfer registers. Fifteenth- and

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enforcement was regularly executed by the late sixteenth century (earliest available court registers) and there can be little doubt about similar procedures in earlier periods. The existence of formal price building processes - e. g. formal assessment procedures - is subject to strong regional variation.

<sup>59</sup> Sächsisches Hauptstaatsarchiv (SächsHSTA) Dresden, Amtsgericht (AG) Freiberg, Gerichtsbuch Nr. 587, Oberbobritzsch, fol. 535 (Saxony, from 1541).

<sup>60</sup> Doubek/Schmid 1931: 173f. On the importance inheritance processes for subdivisions and decisions of sales see for Switzerland [www.lexhist.ch](http://www.lexhist.ch), art. Bodenmarkt, accessed May 31st, 2005.

<sup>61</sup> Ulanowski 1921: 306, no.1446 (Krościenko, Southern Poland 1432); 290, no. 1090 (Krościenko, Southern Poland 1419); 200f, no. 537 (Maszkienice, Southern Poland 1487).

<sup>62</sup> Státní oblastní archiv Litoměřice, pobočka Děčín (SOA Děčín), Velkostatek (Vs) Frýdlant, inv. č. 1, Pozemková kniha 1493-1516, fol. 3'.

<sup>63</sup> SOA Děčín, Vs Frýdlant, urbář 1381, Bl. 22b.

<sup>64</sup> Haupt/Huth 1957: 35, fol. 11b.

<sup>65</sup> Ludat 1965: 65 (pag. 127).

<sup>66</sup> Ribbe/Schultze 1976: 50, 138f. Cf. Ribbe 1981: 27.

<sup>67</sup> See for medieval Eastphalia in this respect: Kuchenbuch 1983: 30f.

<sup>68</sup> Emler 1881: 209; for the medieval terminology of such land plots in Bohemia see Henningsen 1989: 29ff.

early-sixteenth century registers from Upper Lusatia analyzed in this respect revealed several sales of individual arable and other fields.<sup>69</sup> This happened also elsewhere; referring to illegal alienations, lords in Swabia demanded that the plots in question were united with the original holdings again.<sup>70</sup> However, similar to patterns observed for fifteenth-century Berkshire, there is a clear overwhelming majority for purchasing contracts of holdings (whole peasant farms and sub-peasant properties) in these transfer registers, which - even in view of the overall property fluctuation of holdings evident between the sixteenth and eighteenth centuries evident in these regions - must be seen as a severe limit of land market flexibility.<sup>71</sup> Nevertheless, if such transactions were basically possible, then the owners of subject holdings would also be able to sell pieces of land consecutively. This could be a way to establish new sub-peasant households.<sup>72</sup>

Alienations of such pieces of land that might have been traded separately become also visible *ex post*, when land was consolidated to new farmsteads. In the village Zweinitz, property of the Bishop of Gurk in Carinthia, the estate register of 1404 refers to two hides, one newly composed "of an arable field of a certain Podienitsch and some land under the place Dyeplas [an area in the village]" the other "put together by a meadow under the church, a cottage and arable fields in St. Ägidien [another settlement] and one arable field from the land".<sup>73</sup>

These links between sub-peasant households established via land market transactions and (open field?)<sup>74</sup> land of peasant farms is particularly evident in cases, where smallholders and cottagers rendered dues to subject farms. In several villages of the Brandenburg monastery of Zinna, peasant farms received payments of smallholders.<sup>75</sup> The Brandenburg land register of 1375 says for the village of Bröddin that an unknown number of smallholders "spectant ad mansos".<sup>76</sup> In the manor of Frýdlant in 1381, four smallholders in the village of Větrov seemed to pay their dues to neighbouring peasants (cf. also table 2).<sup>77</sup>

<sup>69</sup> Cases from 1496, 1498, 1513 and 1528 in: SächsHSTA, Staatsfilialarchiv Bautzen, AG Zittau Nr. 735, Schöppenbuch Oberullersdorf, not paginated; AG Zittau Nr. 715, Schöppenbuch Hirschfelde, fol. 6r, 7r; AG Zittau Nr. 644, Schöppenbuch Oberseifersdorf, not paginated. For similar examples in fifteenth-century Bohemia see Vacek 1930: 108.

<sup>70</sup> Grees 1975: 76f. Sometimes landlord conditions on sales were simply ignored and small parcels of irregular size were sold or granted to establish new holdings of heirs and then traded freely subsequently. Cf. Sreenivasan 2004: 85.

<sup>71</sup> See also below section IV for evidence for early modern land market activities. In three villages of the estate of Frýdlant, only 17 of a total of 323 purchasing contracts registered between 1558 and 1650 referred to sales of one or more individual arable fields, i. e. smaller portions of land, whereas there were 284 cases of transfers of peasant farms and sub-peasant holdings. Cf. Štefanová 2002: 209. In general, in early modern Bohemia and Upper Lusatia, *inter vivos* transfers of properties represent a clear majority of transactions.

<sup>72</sup> Liene (1990: 293) describes processes of step-by-step sales of farmland among elderly peasants in late medieval Westphalia. Cf. for similar observations in England Postan 1960: xxxv.

<sup>73</sup> "mansum (...) congregatum ex agris Podienitsch et territorio vnderm Dyplas (...) Item mansum ibidem aggregatum ex prato sub ecclesia, area una et agris in sco. Egidio (...) et 1 agro in campo". Fresacher 1950: 45.

<sup>74</sup> For the village of Wadochowice of the Lower Silesian monastery of Henryków, for example, the foundation book mentions that the smallholders are situated within the land of peasant hides ("et ipsi orti sub mensura mansorum concludatur et ad rusticos pertineant ab antiquo"). Grodecki 1991: 169f.

<sup>75</sup> Ribbe/Schultze 1976: 48ff, 138ff, 148-150; see also Kamke 1996: 148. For Swabia see Grees 1975: 69f, 118-123.

<sup>76</sup> Schultze 1940: 280. Peasants received the majority of cash rents paid by smallholders in the Brandenburg district of Teltow in 1375. From, this Assing (1965: 212) suggests a connection of the smallholders to peasant hides.

<sup>77</sup> SOA Děčín, Vs Frýdlant, urbář 1381, Bl. 9b und 10a. See also Boelcke 1967: 84.

Table 2: Property structure of individual unmeasured fields and plots of land, manor of Frýdlant 1381 (1409)

Property of	Type of land	
	Garden	Land outside hides
separate household	24-5	4
village community	2	--
church	2	--
village bailiff	5	1
feudal lord	2	2
subject peasants	3-4	6
sum	39	13

Quelle: SOA Děčín, Vs Frýdlant, urbář 1381.

A large group of sub-peasants and smallholders connected with peasant farms was registered by the land register of the Lower Lusatian manor of Zary in 1381 (cf. table 3).<sup>78</sup> In many villages, there were "beerbte gärten" (literally "gardens in hereditary tenure") within peasant land. These smallholding properties (89 out of 254 smallholders in total) were listed separately from owners of peasant land, but obviously belonged to their farms. Most likely, these formed separate entities on the farms, maybe sub-leases, maybe they were permanently alienated from the farmland by arrangements similar to the forms of contractual retirement described above.

Table 3: Property structure of sub-peasant holdings (*Gärten*), manor of Zary 1381

Property of	N	Independent holdings pay dues to	N
separate household	44	village bailiff	3
village bailiff	> 10	Church	3
subject peasants	48	feudal lord	ca. 13
church	40	demesne farm	18
other	8	Other	3
no information	104		
sum	c.254	sum	c. 40

NB: Not including an undefined number of sub-peasant holdings within demesne farms.

Quelle: Schultze 1936.

It was Michael Postan who, already in his edition of the Peterborough Abbey 'Carte nativorum', suggested that in the English Midlands, where inter vivos land transactions among customary tenants seemed less frequent, the full extent of the peasant land market might have been hidden in informal (sub-)leasehold arrangements, maybe because of landlord restrictions.<sup>79</sup> Short-term or long-term leases certainly formed a significant element of flexibility within the subject land market, often also used to disguise credit transactions. By the very nature of this phenomenon, it can hardly be grasped by sources for Central and East-Central Europe, either. It is a great help, however, that sources indicate that those forms of contracts existed. Even more significantly, regulations indicate that leasehold arrangements were meant for individual plots of land such as fields, meadows or assarts rather than full holdings<sup>80</sup>, exactly what smallholders and sub-peasant strata might have needed to support their agrarian economy or to invest cash in little portions of

<sup>78</sup> Schultze 1936. Cf. Brankač 1990: 54f, 284.

<sup>79</sup> "While the subdivision of the customary holdings betrays the action of the village land market, the stability of the virgated pattern of villein holdings need not signify its absence. (...) But elsewhere the persistence of the virgated pattern must be taken as an indication that it was left to the unofficial land market to reconcile the ancient tenurial pattern to the changing fortunes of the individual." Postan 1960: xli. This hypothesis was recently investigated in detail by Whittle/Yates 2000 (see esp. 2, 18f, 25f).

<sup>80</sup> The earliest regulations quoted by Wiessner (1934: 176) are from 1320.

land. Land held in lease could also be mortgaged and sub-leased in the Lower Rhine area, provided the owner was informed. The great majority of leases mentioned in sources, however, refer to special holdings such as mills, smiths etc.<sup>81</sup> In respect to leases of individual plots, also demesne land or grants by lords or village common land by communities to subject households played an important role, especially for the establishment of sub-peasants.<sup>82</sup>

Turning now to the second, perhaps more important segment of subject land for independent transactions, the availability of clearances and assarts, previously unsettled land, reserves of common land and the role of village bailiffs, the parish and the manorial demesne economy will be analyzed. There existed landlord regulations regarding newly cleared land or assarts. Theoretically, also the acquisition of this land required landlord consent. These rules are indirect evidence for frequent subject violation and illegal acquisitions. An extreme case to maintain control is represented by a custumal of a monastery in Southern Germany that secured the lord's claim on such land to be upheld for a hundred years and a day.<sup>83</sup> In many local regulations, there were also strict limits as to the size of the clearance that could be acquired by individual holdings and the dues that had to be rendered for it. Depending on whether the assart was on seigneurial or on common land the lord or the village community would issue such regulations. Interestingly, some custumals restricted the acquisition of such new land to those village households that held landed property already.<sup>84</sup>

In Swabia, newly cleared land constituted an important source of land for landless or land-poor sub-peasant households in the fourteenth and fifteenth centuries. Per definition and legal status, these areas were often not subject to the transfer restrictions imposed on regular holdings or messuages. Owners were explicitly entitled to sell clearance fields according to their will.<sup>85</sup> In the Archbishopric of Salzburg, the intensity of clearances increased strongly after the beginning of the fifteenth century. Similar to developments in South Western Germany in the thirteenth and fourteenth centuries, subject farms used this newly cleared land to supplement their existing property. These plots created flexible land reserves and the possibility for future trades with fields and individual pieces of farmland.<sup>86</sup> In areas hit hard by the late medieval population decline, deserted holdings and villages considerably increased land reserves and hence the flexibility of land transactions with individual fields or parts of holdings by the late fourteenth and early fifteenth centuries.<sup>87</sup>

Settlement processes for land that was not included into peasant land during the initial colonization process occurred very frequently in East-Central European territories. The estate register of Žary of 1381 gives particularly good evidence of this structure, as a systematic settlement expansion seems to have been under way.<sup>88</sup> In Suchleb, "the children of Peczoldi" occupied three quarters of a hide of such land outside the measured fields. In Siedlo, children of a peasant farm situated in the neighbouring village owned a piece of uncultivated land. In total, there were at least ten plots of land of such category (cf. table 4).<sup>89</sup> Similar cases are evident in the property of the monastery Marienstern in 1374<sup>90</sup> and in the manor of Frýdlant (see table 2).<sup>91</sup> In

<sup>81</sup> See Lienen 1991: 297; Reinicke 1989: 232, 234, 327. Wiessner 1934: 176f.

<sup>82</sup> See Bader 1973: 20. For instance, in 1220, monastery St. Peter in Mainz leases individual "agri seminales" for life. Custumals indicate annual turnover of seigneurial land plots in leasehold among villagers.

<sup>83</sup> Wiessner 1934: 161f.

<sup>84</sup> Bader 1973: 161-189; Wiessner 1934: 262f; Siegel/Tomaschek 1870: 36, l. 31-35.

<sup>85</sup> Grees 1975: 147. For the importance of land reserves for the development of flexible land markets in England cf. Harvey 1977: 296, 300; Schofield 2003: 68.

<sup>86</sup> Dopsch 1983: 253.

<sup>87</sup> Grees 1975: 140, 142f; Rösener 1983: 151f.

<sup>88</sup> Schultze 1936: 112, 116.

<sup>89</sup> Schultze 1936: 26f, 63f, 66-69.

<sup>90</sup> Haupt/Huth 1960: 61f, fol. 46a-46b.

the estate of the monastery of Zinna, smallholders owned additional land beyond the regular village borders.<sup>92</sup>

Table 4: Types of individual unmeasured fields and plots of land, manor of Žary, 1381

Type	N
piece of arable field	13
1 acre arable	1
meadow	9
land outside hides	10
Sum	33

Source: Schultze 1936.

In various territories of East-Central Europe, there exist examples of whole villages in the Middle Ages that were founded without the usual structure of open field land measured in hides. In the property of the monastery of Neuzelle in Lower Lusatia, there were two such villages in the early fifteenth centuries. In the words of an estate register, the village of Schlaben "does not have hides. There are only eleven gardeners [i. e. smallholders] (...)"<sup>93</sup>. Further on the village of Ziltendorf: "there are not owners of hides (...) they are called gardeners, who are 16"<sup>94</sup>. Only smallholders and fishermen lived in various villages in the manors of Lebus and Sternberg in Brandenburg in 1460/61.<sup>94</sup>

In many regions of East-Central Europe, villages had quite a large area of common resources at their disposal. These usually consisted of different types of land and formed important reserves that were used especially from the sixteenth century onwards. Particularly in the bordering regions of Upper Lusatia, Northern Bohemia and Lower Silesia, these sub-peasant groups - usually referred to as *Auengärtner* or *Auenhäusler* - appear strongly in estate and land registers (see tables A.2 and A.8; here classified as 'cottagers'). But already in the later Middle Ages, individual examples show that this land was available for flexible transactions or for the establishment of cottages. In villages in the manor of Frýdlant<sup>95</sup> and the manor of Žary in 1381, there were examples of smallholders, with a property of a quarter hide, situated on common land.<sup>96</sup> Several smallholders settled common land near the town of Trzebnica in Silesia<sup>97</sup>, while in Polish Krościenko Niclos Koleryne bought a plot from the village land in 1419.<sup>98</sup> Similar processes were also observed in other regions.<sup>99</sup>

An important element that considerably enhanced the dynamics of the subject land market was the dissolution of demesne farms or their reduction in size from the thirteenth centuries onwards. Lords chose various forms to let this land, among which were also sharecropping or leasehold

<sup>91</sup> SOA Děčín, Vs Frýdlant, urbář 1381.

<sup>92</sup> Kamke 1996: 143f.

<sup>93</sup> "Sllawin hot nicht hufin. Do syn 11 gartin (...)"<sup>93</sup>; "Zu Czultendorff seyn nicht huffener ... dy nent man gertenerere, der seyn 16"<sup>94</sup>: Theuner/Lippert 1897: 120, 133; cf. Boelcke 1967: 87; Bentzien 1988; Brankač 1990: 170f; Matějka 1970: 12; Ribbe 1976: 123-127; Ribbe 1981: 23-25.

<sup>94</sup> Kamke 1996: 151f. For other examples see Kuhn 1955: 144.

<sup>95</sup> SOA Děčín, Vs Frýdlant, urbář 1381, Bl. 15. First systematic settlement extensions on the commons are observed for the period around 1500 in Northern Bohemia. Cf. Richter 1960: 13.

<sup>96</sup> Schultze 1936: 61. On the importance of common land reserves for the land-poor and landless population Bader 1973: 189.

<sup>97</sup> Meitzen 1863: 253.

<sup>98</sup> Ulanowski 1921: 279, no. 1082. On the importance of common land resources for the establishment of sub-peasant population in medieval Poland see Maćzak et al. 1981: 536.

<sup>99</sup> For Eastern Swabia Grees 1975: S. 147; for North Western Germany Lütge 1963: 94; for Styria Posch 1963: 68f. Further examples for the sale of common land to individuals in the fifteenth century in Bader 1962: 430.

contracts for a limited period of time that would be granted to wealthy tenants.<sup>100</sup> In other cases, the demesne land was split into numerous plots that were used to establish new smallholder households or which could be acquired by peasants as well as landless and smallholders in addition to their existing properties.<sup>101</sup> Sometimes, this land was not given out in hereditary tenure, but with weaker property rights, which meant a higher property turnover. For instance in 1280, the Basel priory St. Alban could choose, whether the holdings from its demesne land were given "in hereditary tenure, or for life or also for a set number of years". In estate registers, seigneurial administrations distinguished between different types of tenure on the level of individual holdings.<sup>102</sup>

If smallholders and sub-peasants were exposed to weaker property rights<sup>103</sup>, this could be regarded as further piece of evidence in favour of the hypothesis that the subject land market was fragmented. Only in the course of time, their property rights improved and they received the legal status of hereditary tenure.<sup>104</sup> Individual sources indicate that improvements of the property relations were granted in order to keep subject peasants and smallholders from leaving the manors. In a monasterial property near Breisgau, smallholders on demesne land received hereditary tenure already in 1277 and they had full access to the village common resources.<sup>105</sup>

Even before the dissolution of demesne farms, many sub-peasant households can be found directly on them. It is very likely that they were used for wage labour or for labour services on these farms and this connection may have been one of the reasons why feudal lords actively supported their establishment. For the Czech Lands, Brandenburg and Mecklenburg in the fourteenth and fifteenth centuries many examples can be found for sub-peasant households linked to demesne farms.<sup>106</sup> This influence can also be reconstructed ex post: for instance in the Brandenburg manor of Boitzenburg, the number and proportion of sub-peasants in villages with demesne farms was higher in the late fifteenth century than in surrounding villages.<sup>107</sup> This causality is particularly obvious in Prussia, where also special sub-peasant villages or village parts were established to serve for demesne farms.<sup>108</sup> Nearly half of the 254 sub-peasant holdings in the manor of Zary (*Gärtner*/‘garden’) in 1381 were in villages with demesne farms or were situated directly on them (see table 2).<sup>109</sup>

A similar relationship was likely with reference to land of parish priests and parish churches. The example of sub-peasants settling on church land indicate that parish priests flexibly sold land to establish new sub-peasant households, which, in turn, served as wage labourers on their land.<sup>110</sup>

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<sup>100</sup> On the importance of large landownership and leasehold arrangements for the development of social structure in areas of Holland see van Bavel 2004: esp. 140ff. This created a highly active land market with a strong fluctuation of leaseholds, favouring the concentration of land.

<sup>101</sup> See Brankač 1990: 82 for Eastern Germany. For a systematic analysis of the tendency of Bohemian monasteries to reduce their demesne economy between the fourteenth and early sixteenth century see Čechura 1994.

<sup>102</sup> "in emphyteosim vel ad vitam aut ad certos annos". Cf. for this process for Southwestern Germany Rösener 1991b: 467-473, 513.

<sup>103</sup> Rösener 1991b: 472. This could also be the case for land from dissolved demesnes in East-Central Europe. Cf. for Bohemia Procházka 1959. Generally on the relevance of worse property rights especially for sub-peasant strata Bader 1973: 19f.

<sup>104</sup> Rösener 1991b: 472, 513.

<sup>105</sup> Rösener 1991b: 517f. Contrary examples from other parts of Southern Germany, where only owners of peasant hides held common rights in Störmer 1983: 36 (from 1410). Mixed forms of restricted access according to land property existed, too. For a 1328 example see Grees 1975: 13.

<sup>106</sup> See the examples in Cerman (in print): 319-323.

<sup>107</sup> Seemann 1987: 12f, 22. Cf. for this argument for Brandenburg in general Engel/Zientara 1967: 318.

<sup>108</sup> Kriedte 1974: 284, 286; Martens 1997: 348, 359-365.

<sup>109</sup> Schultze 1936.

<sup>110</sup> Cerman (in print): 326f; Engel/Zientara 1967: 103; Graus 1957: 204f. For similar patterns in Swabia Grees 1975: 115; in the Duchy of Wroclaw in 1329, a smallholder reports that he has to work for his village priest (Hoffmann 1989: 106).

As feudal lords often held the right of patronage over parish churches, it is likely that they could influence or prevent independent land transactions by parish priests. Charters suggest that priests had to seek consent to sell off land.<sup>111</sup> On the other hand, the importance of this source of land for flexible transactions must not be overestimated. In the examples of Frýdlant and Žary quoted before, this is particularly evident. In the manor of Frýdlant in 1381, only two of 39 independent sub-peasant holdings paid their dues to the church; in Žary, the figure was 22 out of a total of 254 (cf. tables 2 and 3).<sup>112</sup>

Finally, village bailiffs in East-Central Europe usually owned large farms and sometimes, sub-peasant households settled on their land. To give a particularly surprising example, ten out of sixteen smallholder households had to work for the bailiff in the village of Krzyżowo in Lower Lusatia in 1381.<sup>113</sup> Many cases of one or more sub-peasants on village bailiff land can be found for different areas of the Czech Lands, Brandenburg and Poland in the later Middle Ages.<sup>114</sup> As in the case of parish land, the overall effect might have been limited, although for individual villages bailiff land might have made a difference in terms of more flexible land markets. Only five of 39 sub-peasant holdings in Frýdlant and 13 of 254 in Žary were connected to village bailiffs in 1381 (see Tables 2 and 3).<sup>115</sup>

For several reasons, but most importantly because of the legal status of the land in question, the property of sub-peasants could be used for flexible transactions or could be subdivided more easily than peasant farms. As a closer comparative analysis is missing, some examples from the estate registers of the monastery of Zinna of 1480 and 1565/68 can illustrate this point. In this period, there were hardly any subdivisions of peasant farms, but, e. g. in the village of Dümde several smallholdings were split up into two or three new properties. In Felgentreu, two new houses - one owned by a widow, the other by a shepherd - were established on the property of a smallholder.<sup>116</sup> Also land transaction registers list flexible arrangements with land from smallholders. In 1520 a "piece" of a smallholding was sold near Zittau in Upper Lusatia.<sup>117</sup>

The apparently active involvement of sub-peasant holdings within developing land markets or in the niches of landed property that did not prevent flexible transactions is clearly related to the fact, that these social groups were dependent on some sort of land market to acquire property at all. While one story presented from the literature above is that the flexible division of farmland and the establishment of smallholders helped the development of the land market in some parts of Southern Germany, other studies indicate that only the minority of sub-peasant holdings in the Later Middle Ages were originally endowed with land. Their land property evident in fifteenth-century sources often was of various origins and consisted of individual plots possibly of variable legal status.<sup>118</sup> Existing surveys on the fourteenth and fifteenth century rural social structures confirm that smallholders and sub-peasant households were a common social phenomenon and locally reached significant proportions among the rural population.<sup>119</sup> I have tried to show that there was a close connection between them and flexible arrangements in relation to the available

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<sup>111</sup> Evident in a 1409 charter to the parish priest in Týn in Moravia. Archiv Český 1 (1841): 341, no. 3.

<sup>112</sup> Schultze 1936; SOA Děčín, Vs Frýdlant, urbář 1381. For Žary see Brankač 1990: 65f.

<sup>113</sup> Schultze 1936: 104.

<sup>114</sup> Cf. Cerman (in print): 328f.

<sup>115</sup> Schultze 1936; SOA Děčín, Vs Frýdlant, urbář 1381.

<sup>116</sup> Ribbe/Schultze 1976: 61, 64, 75, 113.

<sup>117</sup> "eyn stücke garthen". SächsHSTA, Staatsfilialarchiv Bautzen, AG Zittau Nr. 715, Schöppenbuch Hirschfelde, fol. 18r.

<sup>118</sup> Grees 1975: 137f.

<sup>119</sup> See tables in the appendix. For rural social structure in Bohemia and Moravia cf. Čechura 1990; Čechura 1995; Matějek 1970; Nový 1961; Nový 1963; Šmahel 1993: 414ff.

subject land. In the post-1945 Marxist literature, their role in developing labour markets formed a special focus of medieval and early modern agrarian and economic history.<sup>120</sup>

#### IV. Land transaction patterns in selected areas of Bohemia in the early modern period

In the following, a brief survey of available data from micro-studies carried out in the international research project "Social structures in Bohemia"<sup>121</sup> is added as an illustration for the volume of land markets in terms of land transfer activities in the early modern period. For these results, seigneurial and village land transfer registers were evaluated. Between a third and two thirds of transactions occurred between non-related purchasing partners and the number of transactions per annum is significant. In all the regional studies, special attention was given to possible landlord intervention in subject land transactions. Though formally seigneurial control powers existed, interventions were restricted to very few cases of contractual retirement - as these could burden the new owners - or were brought about by deliberate petitions of subjects involved in very few other cases.<sup>122</sup>

Table 5: Land transfers in the villages of Háj, Luh and Vysoky (estate Frýdlant), 1558-1750

Relationship between purchaser and owner	N peasant	per cent peasant	N small-holders	per cent small-holders	N cottages on commons	per cent cottages on commons
relatives	173	44.2	36	18.3	61	24.8
non-related/unknown	218	55.8	161	81.7	185	75.2
sum	391	100	197	100	246	100

Sources: Štefanová 2002: 209; Štefanová (in print)<sup>123</sup>.

The social distribution of the subject households is known for various years between 1560 and 1722. If we take reliable measures of 1629 (estate register) and 1722 (state land register, the *Tereziánský katastr*) as proxies, we could conclude that between 4.5 and 5.4 per cent of peasant farms were transferred in every year of the period observed. The respective proportions for smallholders amounted to around 3.5 per cent and it ranged between 2.6 and 3.6 per cent of the cottages. It is quite unusual that the turnover was higher among farms (see below). This may have to do with the fact that the Frýdlant areas experienced a high level of protestant emigration after the Thirty Years which led to a high number of property transfers and a relative high proportion of deserted holdings, compared to surrounding regions or other parts of Bohemia, in the post-war period.

<sup>120</sup> Cf. as examples Engel/Zientara 1967; Graus 1957: esp. 194ff.

<sup>121</sup> Cf. for an overview over the activities and publications [www.univie.ac.at/Wirtschaftsgeschichte/P\\_BoeSozialstruktur.html](http://www.univie.ac.at/Wirtschaftsgeschichte/P_BoeSozialstruktur.html).

<sup>122</sup> Cf. particularly Štefanová (in print); a survey in Cerman/Maur/Zeitlhofer 2002: 280-284.

<sup>123</sup> I would like thank Dana Štefanová to make available her most recent figures to me from her publication print and for her comments.



Table 6: Land transfers in the parish of Kapličky (estate Višší Brod), 1651-1720

Relationship between purchaser and owner	Peasants N	Peasants %	Sub-peasants N	Sub-peasants %
son	67	36.4	15	23.8
son-in-law	23	12.5	12	19.0
remarriage of widow	24	13.0	11	17.5
distant relatives	14	7.6	4	6.4
unknown	56	30.4	20	31.7
sum	184	100.0	63	100.0

Source: Zeitlhofer 2001: 151.

There were 55 peasant farms and 12 sub-peasant households in Kapličky in 1654 and 55 farms and 21 sub-peasants in 1682 respectively.<sup>124</sup> The table would suggest that in the 70 years observed, peasant farms would change owner 3.3 times on average, and sub-peasant properties were transferred 3 to 5.25 times on average. This would mean an annual turnover of 4.8 per cent of the peasant farms and of 4.3 to 7.6 per cent of the existing cottages and smallholdings.

Table 7: Land transfers in the district of Vřesce (estate Chýnov), 1625-1795

Relationship between purchaser and owner	N peasants	peasants %	N sub-peasants	sub-peasants %
son	55	38.19	30	28.57
son-in-law	12	8.33	10	9.52
brother	4	2.78	7	6.67
brother-in-law	--	--	1	0.95
not related	73	50.69	57	54.29
sum	144	100.0	105	100.00

Source: Grulich (in print).

A similar estimate is possible for the Southern Bohemian district of Vřesce. In 1625, there existed 32 peasant farms and 13 sub-peasant households; until 1725, the two groups equally had 21 households.<sup>125</sup> Also here, sub-peasant holdings were traded significantly more often than peasant farms. On average, 1.3 to 2.0 per cent of the peasant farms were sold p. a., whereas the proportions were between 2.9 and 4.8 per cent for sub-peasant holdings. These analyses of the transfers per annum cannot be equated to the annual turnover of land (this would have to be computed separately from the property registered in taxation lists)<sup>126</sup>, but may serve as a rough indicator of the vitality of the land market. Moreover, if we accept one of the usual approaches to classify the proportion of transfers between non-related persons as a possible indicator of the degree of commercialization of land markets, the selected examples from sixteenth and seventeenth-century Bohemia display a varying but high proportion of such transactions and it is, with the exception of Frýdlant, higher for sub-peasant holdings relative to peasant farms (tables 5, 6 and 7).<sup>127</sup>

<sup>124</sup> Zeitlhofer 2001: 87.

<sup>125</sup> Grulich (in print).

<sup>126</sup> See comparative measures of the annual turnover of land computed by van Bavel 2004 and in van Bavel's paper for this conference (table 1, pp. 20f).

<sup>127</sup> Hints on stronger property mobility among sub-peasant holdings in the later Middle Ages in Reinicke 1989: 241.

## V. Conclusion

A preliminary interpretation of the development of land markets in Central and East-Central Europe in the later Middle Ages has to consider the scope of institutional interference evident in normative sources and village customs on the one hand and the possibilities of flexible property transactions on the other. Independent of the question to what extent active inter-vivos transfers of peasant farmland took place, that certainly contributed to an active land market particularly in some regions, such as South Western Germany, or helped to establish separate cottages, also transactions with individual fields or plots of land seemed widespread. This becomes especially evident for late fifteenth- and early sixteenth-century land transactions registers.

Traditionally, the influence of feudal lords and village communities on land market development was seen mainly in restrictive regulation. However, already existing studies on Central Europe show that institutional restrictions on flexible land transactions were not only established to prevent land markets. Rather, they meant to bring land transactions under seigneurial administrative control, and in several areas of later medieval Central Europe, feudal lord showed interest in increasing the flexibility of land markets to stabilize manorial structures and create additional revenue. Finally, they could open new land for clearance and settlement, albeit determine the conditions. Therefore, conclusions drawn to explain the regional differences in land market integration of late medieval England that "(s)trong land-family bonds [which delimit commercially less developed land markets - M. C.] are more likely a reflection of limited freedoms and landlord intransigence"<sup>128</sup> bear direct relevance for the form of institutional intervention discussed in Central Europe discussed here.

The paper's focus, however, was on a second segment of the land market that has to be separated analytically from peasant farmland due to the legal status of the land involved. In East-Central Europe, these two segments and the land markets as such did not display the same sort of integration as in some areas of late medieval England. The transactions of smallholders and cottagers, established with assarts, demesne or village common land outside the areas legally counted to the open fields possibly represented the most dynamic element of land markets in later medieval Central and East-Central Europe. This can also be inferred from the regionally significant proportion of sub-peasant strata. Therefore, the subject land market and independent land transactions played a strong role in establishing sub-peasant strata, who in turn added to the flexibility and further development of land markets. It also seems that in some regions investigated here, these types of land and activities on the land market were more important for the spread of sub-peasant households than the subdivision of farmland. Although there was a significant potential for institutional intervention, direct influence on land transactions was rare in the early modern period. Land transfer registers from the late sixteenth century on give evidence of a very high property mobility, also among smallholders and cottagers. Although, transactions with peasant and sub-peasant holdings dominated in the registers, flexible solutions to accommodate the rising numbers of cottagers via land markets in the early modern period in some areas of East-Central Europe seemed to have roots in comparable patterns in the fourteenth and fifteenth centuries.

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<sup>128</sup> Smith 1998: 367.

## VI. Glossary

In order to avoid confusion about the contemporary but also scholarly terminology, the following approach was chosen. *Peasant* is used only to denominate a specific landowning strata of the rural population (*Bauer; bäuerlich*) as opposed to the more general application to the rural population as a whole by much of the English-language literature. Hence, peasants or *peasant farms* (*Bauernhof*) are separated from the sub-peasant population and their holdings such as smallholders or cottagers/crofters (*Kleinbauern, Schupposen, Kossäten, Häusler, Seldner*; in contemporary terminology: *[h]ortulanus, subses, area, Gärtner, Hofstätte*). Peasants and sub-peasants together constitute the *subject (untertänig)* population, i. e. people subject to feudal overlordship (*landlords*). The term ‘customary’ is not used for the Central European context in order to avoid confusion with personally unfree (*unfrei*) population. In doubt, the more general notion of a *subject* population would cover both subject, but personally free, and unfree owners of subject holdings. Freehold property was already rare among the thirteenth-century Central European rural population.

In the paper, the legal status of peasant land measured in and divided into (regular portions of) hides (*Hufe, mansus*) or similar standard units (such as *Ruten*, a twelfth of a hide) is differentiated from plots of land that were not (originally) integrated into peasant hide land. In order to avoid complex paraphrases I also refer to this differentiation as land of peasant farms being part of open field land and plots of land (such as new clearances, previously unsettled land, commons), also used by sub-peasants, that were not.

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**VIII. Data appendix**

Table A.1: Social structure in the manor of Frýdlant, 1381

social group	N (per cent)	property	N (per cent)
peasant	383 (80.8)	1 hide	40 (10.3)
peasant without information	45 (9.5)	12 Ruten	14 (3.6)
deserted	6 (1.3)	11 Ruten	0 (--)
smallholder	28 (5.9)	10 Ruten	4 (1.0)
other sub-peasant	5 (1.0)	9 Ruten	19 (4.9)
n./a.	7 (1.5)	8 Ruten	9 (2.3)
sum	474 (100.0)	7 Ruten	17 (4.4)
		half-hide	60 (15.5)
		6 Ruten	4 (1.0)
		5 Ruten	29 (7.5)
		4 Ruten	42 (10.8)
		3 Ruten	70 (18.0)
		2 Ruten	50 (12.9)
		1 Rute	27 (7.0)
		< 1 Rute	3 (0.8)
		sum	388 (100.0)

NB 12 Ruten = 1 peasant hide

Source: SOA Děčín, VS Frýdlant, inv. č. 1, urbář 1381.

Table A.2: Social structure in the manor of Frýdlant, 1565

social group	N	per cent
peasant	548	47.0
smallholder	191	16.4
cottage (on common land)	151	13.0
inmates	267	22.9
other sub-peasant	8	0.7
sum	1,165	100.0

Source: SOA Děčín, HS, Kart. č. 2.

Table A.3: Social structure in the manor of Žary, 1381

social group	N	per cent
peasant	831	81.1
smallholders	194	18.9
sum	1,025	100.0

Source: Brankačková 1990: 47f; Schultze 1936.

Table A.4: Land property of peasant farms, manor of Żary, 1381

size in Ruten	N	per cent
0-1	5	0,62
1,1-2	9	1,11
3	60	7,40
3,1-5,5	23	2,84
6	190	23,43
6,1-8,5	21	2,59
9	95	11,71
10-10,5	26	3,21
11-11,5	10	1,23
12	169	20,84
>12	203	25,03
sum	811	100,00

NB 12 Ruten = 1 peasant hide

Source: Brankačk 1990: 83f; Schultze 1936.

Table A.5: Social structure in the manor of the monastery of Marienstern, 1374

social group	N	per cent
peasant	453	87.6
smallholders	64	12.4
sum	517	100.0
smallholdings in peasant property	20.5	--

Source: Brankačk 1990: 133; Haupt/Huth 1960.

Table A.6: Social structure in the manor of the monastery of Neuzelle, 1428

N of hides	N of smallholders	N of other sub-peasants	N of sub-peasants per village	N of sub-peasants per 100 hides
666.5	163	35	9	29.7

Source: Brankačk 1990: 170f; Theuner/Lippert 1897.

Table A.7: Sub-peasant and smallholder property in the Electorate of Brandenburg, 1375

District	N villages	N of sub-peasants	N of sub-peasants per village	N of sub-peasants per 100 hides
Havelland	103	872	8.4	27.0
Zauche	78	564	7.2	23.3
Teltow	70	500	7.1	17.5
Barnim	163	2,073	12.7	21.6
Uckermark	148	2,695	18.2	38.0
Sum	562	6,704	11.9	25.5

Source: Engel/Zientara 1967: 318.

Table A.8: Social structure in selected regions of Silesia and in Lower Silesia, 1577

social group	mountainous regions	per cent	Lower Silesia	per cent
vill. bailiff	167	0.7	869	0.9
peasant	10,427	46.3	56,546	55.3
smallholder	7,519	33.4	37,419	36.7
cottager	4,269	18.9	5,247	5.1
other	159	0.7	1,787	1.8
sum	22,541		102,335	

Source: Heck 1959: 58-61.

Table A.9: Inter vivos and post mortem transfers in , 1725-1775 (in per cent; N=110)

social group	per cent inter vivos	per cent post mortem
peasant	60.7	39.3
sub-peasant	62.9	37.1
sum	61.5	38.5

Source: Grulich (in print).