

NOTE

REVERSING FOREIGN EXPLOITATION OF THE BULGARIAN PROPERTY MARKET POST-EUROPEAN UNION ACCESSION

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INTRODUCTION

For the Bulgarian people, the New Year's Eve celebration of December 31, 2006 held special meaning. This particular holiday heralded not just another calendar year, but also the dawning of a new cultural, political, and economic destiny for their small Eastern European country. Citizens filled the streets of Bulgaria's capital, Sofia, to witness their nation boldly turning a new page in its history.¹ A crowd of revelers waiving blue and yellow flags eagerly awaited the new year in the city's Prince Battenberg Square, the former site of the communist party headquarters.²

Bulgaria was about to become an official member of the European Union. As the clock struck midnight, thousands of nationals, watching live and on television, observed the capital city erupt in fireworks as a professional choir belted out a heavenly rendition of Bulgaria's national anthem, *Мила Родино* ("Dear Motherland").³ Meanwhile, the words "WELCOME EUROPE" flashed across massive blue screens on the ceremonial stage.⁴ This evening marked the beginning of many political, social, and economic changes for the small nation of just over seven million people.⁵ Some developments, like the free movement of people

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1. Dan Bilefsky, *Romania and Bulgaria Celebrate Entry into European Union*, N.Y. TIMES (Jan. 2, 2007), <http://www.nytimes.com/2007/01/02/world/europe/02union.html>.

2. *Id.*; see also *Bulgarians Celebrate New Year and EU Accession*, AP ARCHIVE, <https://www.youtube.com/watch?v=dfpO-RaNF40> (last visited Mar. 31, 2016).

3. *Bulgarians Celebrate New Year*, *supra* note 2; *Anthem of the Republic of Bulgaria*, NAT'L ASSEMBLY OF THE REP. OF BULG., <http://www.parliament.bg/bg/22> (last visited Mar. 31, 2016); see also Yoan Kolev, *1964: The History of Bulgaria's National Anthem*, RADIO BULG. (DEC. 27, 2014, 10:05 AM), <http://bnr.bg/en/post/100501134/1964-the-history-of-bulgaria-national-anthem>.

4. *Bulgarians Celebrate New Year*, *supra* note 2.

5. *File: Demographic Balance, 2014 (Thousand)*, (Jul. 9, 2015),

and goods and the modernization of the Bulgarian economy and infrastructure were eagerly-awaited and anticipated.⁶ Others, like the liberalization of the Bulgarian real estate market and related agricultural land reforms, posed ominous consequences.⁷ Nevertheless, for one symbolic evening, Bulgarians at home and abroad celebrated the foundation of a new political and economic partnership.

As a new member of the European Union, Bulgaria entered a club of wealthier, more advanced western nations and would receive financial and infrastructural support to raise its citizens' standard of living.⁸ Politicians, academicians, and media representatives orated and expounded upon the country's bright prospects for economic and political development.⁹ But although Bulgaria was the new kid on the E.U. block, it was no stranger to the process of political change. The nation's E.U. membership was the result of long-fought negotiations with many conditions and exceptions, fueling both optimism and mistrust.¹⁰

[http://ec.europa.eu/eurostat/statistics-](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Demographic_balance,_2014_(thousand)_YB15_II.png)

[explained/index.php/File:Demographic_balance,_2014_\(thousand\)_YB15_II.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Demographic_balance,_2014_(thousand)_YB15_II.png).

6. See *Eurobarometer 64: Public Opinion in the European Union*, EUR. COMM'N, 4–6 (2005), http://ec.europa.eu/public_opinion/archives/eb/eb64/eb64_bg_exec.pdf (analyzing Bulgarians' views, hopes, and fears regarding E.U. accession); see also STEFANOS KATSIKAS, *NEGOTIATING DIPLOMACY IN THE NEW EUROPE: FOREIGN POLICY IN POST-COMMUNIST BULGARIA*, 83, 88, 93 (2012) (discussing the anticipated political and economic benefits of Bulgaria's E.U. accession as perceived over time by Bulgarian politicians, elites, and the public).

7. See *Eurobarometer 64*, *supra* note 6, at 4–6.

8. See *id.*; see generally PETER HERZOG, SMIT & HERZOG ON THE LAW OF THE EUROPEAN UNION §§ 1.01–1.03 (2014). The European Union (EU) is a political and economic alliance among (currently 28) European nation-states that originated with the formation of the European Coal and Steel Community (ECSC) in 1952 following the widespread devastation of the region after World War II. *Id.* The original ECSC Member States were France, Germany, Belgium, the Netherlands, Luxembourg, and Italy. *Id.* The success of the ECSC led these states to quickly sign two more treaties of cooperation in 1957: the European Economic Community (EEC) and the European Atomic Energy Community (EAEC). *Id.* Eventually, these states decided to form a European Union with an internal market that allows for the free movement of people, capital, goods, and services. *Id.* This goal was realized with the signing of the 1992 Treaty on the European Union (TEU). *Id.* Three more treaties of expansion and integration followed: the Amsterdam Treaty (1997), the Nice Treaty (2001), and the Lisbon Treaty (2007). *Id.* Since its inception, the European Union has adopted a common currency, created an executive and legislative infrastructure, and formed a judicial branch that issues binding law for all E.U. Member States. *Id.*

9. See, e.g., Bilefsky, *supra* note 1; see also *E.U. Approves Bulgaria and Romania*, BBC (Sept. 26, 2006), <http://news.bbc.co.uk/2/hi/europe/5380024.stm>.

10. See KATSIKAS, *supra* note 6, at 89–117; see also *Economic and Financial Affairs: Accessing and Candidate Countries*, EUR. COMM'N, http://ec.europa.eu/economy_finance/international/non_eu/candidate/index_en.htm (last visited Mar. 31, 2016). The process of E.U. enlargement is formally called “accession.” *Id.* To become a new Member State, a country must first be recognized as a candidate by the European Union Council. *Id.* Next, the candidate must complete accession negotiations with the European Union. *Id.* Finally, the country achieves member status by signing an accession treaty. *Id.* Accession negotiations may require regular progress reports, pre-accession economic targets, consultations, and fact-finding missions to the candidate country. *Id.*

Bulgarian politicians had first applied for membership to the Union in December 1995.¹¹ After the European Union compiled and published several reports on Bulgaria's progress towards membership, the Union formally opened accession discussions with the country in 2000.¹² Bulgaria then negotiated with the European Union between 2000 and 2004 until mutually acceptable accession terms were reached.¹³ In 2005, the formal negotiations stage officially closed and the parties set a conditional accession date of January 1, 2007.¹⁴

Among the many contentious issues negotiated during these discussions was the liberalization and integration of the Bulgarian capital market.¹⁵ The European Union's founding agreement, the Treaty of Maastricht, requires the free movement of capital, including real property, among all of the Union's Member States.¹⁶ In fact, this concept is one of the fundamental "four freedoms" underpinning the notion of the European Union's Single Market.¹⁷ Upon accession, Bulgaria stood to benefit from the free movement of capital and workers; however, it also faced economic and cultural challenges due in part to the country's disparity in wealth and purchasing power with other E.U. Member States.¹⁸ One major consequence of this liberalization was that foreigners would acquire the same rights as Bulgarian citizens to purchase immovable property.¹⁹

After its accession, Bulgaria was permitted to maintain certain national property market restrictions for a temporary transitional period to prevent speculation and market exploitation by foreigners with drasti-

11. *EU–Bulgaria Relations: Main Steps Towards the EU*, EUR. COMM'N, http://ec.europa.eu/enlargement/archives/bulgaria/eu_bulgaria_relations_en.htm (last visited Mar. 31, 2016).

12. *Id.*

13. *Id.*

14. *Id.*

15. See Adam Lazowski, *And Then They Were Twenty-Seven . . . A Legal Appraisal of the Sixth Accession Treaty*, 44 COMMON MKT. L. REV. 401, 425–26 (2007).

16. *The EU Single Market: Provisions of the Treaty on the Functioning of the European Union* (TFEU), EUR. COMM'N, http://ec.europa.eu/internal_market/capital/framework/treaty/index_en.htm#maincontentSec2 (last visited Mar. 31, 2016).

17. Consolidated Version of the Treaty on the Functioning of the European Union arts. 26(2), 63(1), Oct. 26, 2012, 2012 O.J. C/326. Article 26(2) of the Treaty on the Functioning of the European Union (TFEU) states that "the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured" Article 63(1) of the TFEU prohibits all obstacles to the free movement of capital, not just discriminatory ones. *Id.*

18. See *GDP Per Capita in PPS*, EUROSTAT (Dec. 1 2015), <http://ec.europa.eu/eurostat/tgm/graph.do?tab=graph&plugin=1&language=en&pcode=tec00114&toolbox=type>.

19. See *The EU Single Market: Provisions*, *supra* note 16.

cally higher purchasing power.²⁰ The seemingly arbitrary timeline and benchmarks that governed the expiration of these limitations had many negative repercussions for the country, which will be discussed in greater detail below. Such repercussions demonstrate that, in the future, the European Union must reconsider its basis for liberalizing candidate states' property markets and must attempt to ameliorate the current problems that plague Bulgaria's property market.

This Note demonstrates how Bulgaria's unique historical development has left the country's real estate market in a vulnerable economic position—one that is now being exploited in its new life as an E.U. Member State. To illustrate this point, Part I of this Note tracks Bulgaria's regime change from communism to democracy and discusses how the transition to a market economy has led to the country's current situation. This Section then explores the fluctuating economic factors that resulted in massive income and purchasing power disparities between Bulgarian citizens and their western counterparts throughout the 1990s and early 2000s. Next, Part I continues by explaining the agreement that Bulgaria reached during the accession process and the consequences of the forced market liberalization on the sale of agricultural land parcels. Finally, this Section expounds upon the negative economic and cultural consequences that the negotiated transitional stage has inflicted on Bulgaria from its accession to the end of the transitional period in January 2014.

Part II places Bulgaria's historical development into context by assessing the reasons why the European Union's accession negotiations left Bulgarian citizens unable to compete with foreigners in the Bulgarian real estate market. To better formulate realistic and appropriate solutions for this dilemma, this Section examines the accession struggles of two other E.U. Member States with comparable historical backgrounds—Hungary and Romania. These Member States faced similar income disparity challenges and, like Bulgaria, also heavily relied on access to land for agricultural production. A case study of the struggles in Hungary and Romania reveals lessons that may help Bulgaria and new E.U. Member States avoid the same economic pitfalls.

Part II also lays out two potential solutions. First, the European Union and Bulgaria should pass new legislation to stabilize the country's property market. Proposed laws should include a limitation on the size of agricultural plot sales and should encourage the renting, rather than selling, of larger parcels of agricultural and forested land. Furthermore,

20. See Lazowski, *supra* note 15, at 425–26 (discussing Bulgarian citizens' concerns about disparities in individual income and real estate prices between Bulgaria and other E.U. Member States).

certain actors should retain preemption rights for land outside of town plans. Second, in future E.U. accession negotiations, a candidate country's property market should be liberalized more gradually, ensuring proper safeguards against the exploitation of the domestic economy. Rather than setting an arbitrary deadline, the European Union should tie the expiration of a new Member State's property market restrictions with its citizens' per capita annual earnings or purchasing power.

Finally, this Note examines the broader implications of the European Union's response to this crisis. This Section postulates that the European community at large can benefit from a more stable and equitable Bulgarian property market.

I. BACKGROUND

A. Impact of Communism on National Property Market

Bulgaria's real estate market has undergone several rapid, halting, and difficult transitions in the last few decades. The country's current property landscape was largely shaped by the nation's formerly communist regime.²¹ From the end of World War II until 1989, the Bulgarian government controlled virtually all aspects of national housing production and distribution.²² The construction of new building units was mostly delegated to large-scale state-controlled firms.²³ Property prices, housing finance, rentals, and construction supply levels were all determined and controlled by the government.²⁴ Bulgarian residents who wanted access to new housing were obligated to obtain permission and jump through many bureaucratic hoops mandated by local and municipi-

21. See generally R.J. CRAMPTON, *A CONCISE HISTORY OF BULGARIA* (2d ed. 2005). Bulgaria was a communist state from 1947–1989. *Id.* at 180. After the end of World War II, a communist party gained control of Bulgaria's National Assembly and a new Constitution predicated on the Soviet model was instituted. *Id.* at 184–88. During this period, Bulgaria began to industrialize, nationalize property, and form agricultural collectives. See *id.* at 182–91. In the 1980s, policymakers propagated a form of ultranationalism and attempted to control or expel ethnic minorities, leading to international tensions between Bulgaria and its neighbors. See *id.* at 198–201. Ultimately, these economic and cultural struggles caused the communist party to relinquish control of the government in 1989. See *id.* at 211.

22. See SASHA TSENKOVA, *HOUSING POLICY REFORMS IN POST-SOCIALIST EUROPE: LOST IN TRANSLATION* 28–30 (Springer 2009), <http://www.springer.com/978-3-7908-2114-7>.

23. *Id.* at 29. The standard new buildings constructed during this period were clusters of pre-fabricated, multi-apartment homes. *Id.* at 36. These dwellings were located in large urban areas and consisted primarily of 8 to 16 stories built from precast concrete. *Id.* The clusters of buildings were often referred to as “microregions” and typically housed fifty to eighty thousand inhabitants. *Id.*

24. *Id.* at 29, 32, 34, 41–43; see also *History of the Bulgarian Real Estate Market*, BULG. PROPERTIES, <http://www.bulgarianproperties.com/bulgarian-real-estate-market-history.htm> (last visited Mar. 31, 2016).

pal government offices to complete their purchases.²⁵ Furthermore, the Bulgarian government set national standards dictating the maximum living spaces allotted per person and household, taking into consideration the household structure and number of children in the family.²⁶ Although housing was considered a constitutional right, the government restricted Bulgarian families to ownership of only one dwelling and prohibited them from exchanging that dwelling without permission from local authorities.²⁷ Rather than being conducive to the creation of a fluid buyer/seller market, these practices stifled and restrained property exchanges, limiting citizens' capacity to prosper.

Throughout Bulgaria's communist era, the housing market lacked diversity and living conditions remained relatively poor. To become eligible to purchase property, government housing authorities required Bulgarian citizens to sign up on lengthy waiting lists at their local municipal housing authority.²⁸ In some large urban areas, the waiting period to purchase real estate could be as long as ten to fifteen years.²⁹ During this period, Bulgaria's property market was shaped by centrally-determined rationing plans rather than by economic indicators.³⁰ Urban housing shortages prevailed and caused overcrowding, forcing families to share accommodations with their parents or relatives.³¹ This particular phenomenon came to be known as "hidden homelessness."³²

Not only did the Bulgarian government carry the burden of housing development and allocation, but it was also primarily responsible for housing maintenance.³³ The centralization of so many responsibilities strained state resources and led to economic inefficiencies and societal disgruntlement.³⁴ Ultimately, these problems resulted in construction delays, low-quality housing, and devaluation of Bulgarian real estate.³⁵ Furthermore, the lack of housing led to an increase in government corruption. State officials often secretly allocated properties to reward

25. TSENKOVA, *supra* note 22, at 29.

26. *Id.*

27. *Id.*

28. *Id.*; see also *History of the Bulgarian Real Estate Market*, *supra* note 24.

29. TSENKOVA, *supra* note 22 at 29.

30. *Id.* at 33.

31. *Id.* at 29.

32. *Id.* at 29, 32. Tsenkova and other historians have suggested that hidden homelessness was partially responsible for a variety of Bulgaria's demographic problems. See *id.* Intergenerational cohabitation has been blamed for family tensions, low birth rates, delayed marriages, and social dissatisfaction. *Id.*

33. *Id.* at 32.

34. See *id.* at 30, 32.

35. *Id.* at 32, 41, 46.

themselves or other public servants.³⁶

In addition to the complications caused by central control, inefficient practices in construction led to increased building costs and a lagging property market that further exacerbated the housing shortage.³⁷ Although home ownership in Bulgaria for most of the communist period remained over eighty percent,³⁸ the property market was static and lacked diversity. This stilted business environment set the stage for a wave of privatization and land restitution efforts throughout the 1990s, as well as the European Union accession talks that followed a decade later.

B. *The Struggles of Newfound Capitalism*

Bulgaria's communist regime eventually succumbed to social, political, and economic pressures and finally disintegrated in 1989.³⁹ As the country's political revolution unfolded, the nation began to transition to a free market economy with property market liberalization as a means of combating inflation, unemployment, and corruption.⁴⁰ In 1991, Bulgarians adopted a new Constitution, which stated that "the economy of the Republic of Bulgaria shall be based on free economic initiative."⁴¹ As part of this initiative, in 1992 the state commenced a process of privatization.⁴² State-owned buildings, homes, and lands that had previously been nationalized were either returned to their rightful owners (or their successors) through restitution efforts, or were sold to private par-

36. *See id.* at 32, 34 (discussing political corruption and the emergence of a black market for both rental and owner-occupied units).

37. *Id.* at 32.

38. *Id.* at 33.

39. *See* David A. Levy, *Bulgarian Trade and Investment: A Realistic Assessment*, 27 CASE W. RES. J. INT'L L. 203, 205 (1995). Bulgaria's centralized socialist economy continued to lag throughout the 1970s and 1980s. *Id.* Nationalist views and internal political dissent among the communist party ultimately led to the resignation of the country's Prime Minister, Todor Zhivkov, in 1989 and to reorganization of the party under a socialist banner in the country's subsequent national elections. *Id.*

40. *See* CRAMPTON, *supra* note 21, at 225–29.

41. CONST. OF THE REPUBLIC OF BULGARIA, art. 19(1), *Durzhaven Vestnik* No. 56 (July 13, 1991), <http://www.parliament.bg/en/const>.

42. Levy, *supra* note 39, at 228–33. In 1992, the Bulgarian Council of Ministers created a Privatization Agency to supervise and carry out the denationalization of state enterprises which exceeded seventy million *leva* (the Bulgarian national currency) in value. *Id.* at 228. Agrarian land previously confiscated from farmers by the communist government was also scheduled to be returned or sold to private actors. *See id.* at 233. However, restitution efforts were slow and cumbersome. *Id.* In part, these efforts were hampered by "excessive land claims and lax verification standards" set by a few particular courts. *Id.* Furthermore, progress was inhibited by the numerous institutions that were authorized to carry out the privatization. *Id.* at 229. In addition to the federal Privatization Agency, these included local councils, ministries, and various regional committees. *Id.*

ties.⁴³

During this transitional period, however, citizens' incomes fell and public unemployment rose as political and economic uncertainties prevailed.⁴⁴ Meanwhile, the price of housing and utilities increased as these expenses lost the substantial subsidies provided by the former communist regime.⁴⁵ These factors resulted in a lack of adequate housing and expensive, yet undervalued real estate, which most citizens struggled to afford.⁴⁶

As the 1990s progressed, inflation and interest rates soared.⁴⁷ The government's efforts to transfer ownership rights to previous holders through restitution increased the supply of housing on the market; at the same time, however, soaring inflation and falling wages limited construction of new properties.⁴⁸ Furthermore, a lack of adequate financing, combined with interest rates that at one point exceeded one thousand percent, prevented average citizens from actually bidding on real estate.⁴⁹ Although Bulgarian nationals could finally buy and sell real property at will, they lacked the resources to actually do so. Moreover, the nation's new Constitution prohibited foreign persons or legal entities from acquiring ownership over any Bulgarian land, except through legal inheritance.⁵⁰ Thus, despite government reforms and attempts to embrace a new market economy, the Bulgarian real estate market remained depressed.

In the early 2000s, as Bulgaria geared up to become a full member of the European Union, foreign investment and land speculation began to surge and housing prices rose again.⁵¹ Between 2003 and 2008, Bulgaria experienced a period of double-digit annual price growth, followed by a thirty to forty percent drop in housing prices.⁵² In some places, Bulgarian real estate values more than doubled in the years leading up to the country's E.U. accession.⁵³ Nevertheless, the Bulgarian Constitu-

43. *Id.* at 228–33.

44. *History of the Bulgarian Real Estate Market*, *supra* note 24.

45. *See* TSENKOVA, *supra* note 22, at 36.

46. *See History of the Bulgarian Real Estate Market*, *supra* note 24; *see also* TSENKOVA, *supra* note 22, at 49.

47. *History of the Bulgarian Real Estate Market*, *supra* note 24.

48. *Id.*

49. *Id.*

50. CONST. REPUBLIC OF BULGARIA, art. 22(1), *Durzhaven Vestnik* No. 56 (July 13, 1991), <http://www.investbulgaria.com/laws/constitution.pdf>; CONST. REPUBLIC OF BULGARIA, art. 22(1), *Durzhaven Vestnik* No. 56 (July 13, 1991) (as amended), <http://www.parliament.bg/en/const>.

51. *History of the Bulgarian Real Estate Market*, *supra* note 24.

52. *Id.*

53. Ruth Jackson Lee, *Recent Development: The Stepchildren of the EU: Bulgaria and Romania*, 16 J. TRANSNAT'L L. & POL'Y 361, 373 (2007).

tion still restricted non-citizens' rights to purchase "land, or property with land, including houses, villas, and even some apartments, in Bulgaria in their own name."⁵⁴ To bypass this obstacle, it was common for foreigners to register shell Bulgarian companies.⁵⁵ These companies would conduct no actual business but would allow foreigners to buy Bulgarian property in the name of the company.⁵⁶ Despite this work-around, foreigners wishing to purchase real estate in Bulgaria still faced many of the same bureaucratic challenges as before. Nevertheless, the upsurge in interest from international buyers and from an emerging Bulgarian middle class bolstered the quality of new housing developments and drove up prices.⁵⁷ The value of real estate along the Black Sea coast, as well as in the mountainous Balkan region, rose especially dramatically due to the potential for development of beach and ski resorts in those areas.⁵⁸ This was the state of Bulgaria's property market on the eve of its accession to the European Union.

C. Bulgaria Joins the European Union

In 2007, Bulgaria's entrance into the European Union once again dramatically shifted forces in the country's real estate market. On April 25, 2005, Bulgaria and Romania signed the Treaty Between Member States of the European Union and the Republic of Bulgaria and Romania Concerning Accession to the European Union (Accession Treaty).⁵⁹ According to this agreement, the two nations would officially become E.U. Member States on January 1, 2007.⁶⁰ As new Member States, the signatories committed themselves to transposing the existing body of E.U. law into their own domestic legal regimes.⁶¹ Any conflicts be-

54. *Overseas Property Owners in Bulgaria Warned over Law Change*, PROPERTY WIRE (Aug. 21, 2012), <http://www.propertywire.com/news/europe/bulgaria-property-owners-law-201208216864.html>.

55. *Foreigners Could Lose Homes in Bulgaria*, NUWIRE INVESTOR (Aug. 22, 2012), <http://www.nuwireinvestor.com/articles/foreigners-could-lose-homes-in-bulgaria-59683.aspx>.

56. *Id.*

57. Zoe Dare Hall, *Property in Bulgaria: Raising the Bar for the Smart Set in 'Cheap'n'Cheerful' Bulgaria*, TELEGRAPH (Nov. 17, 2007, 12:01 AM), <http://www.telegraph.co.uk/property/internationalproperty/3359868/Property-in-Bulgaria-Raising-the-bar-for-the-smart-set-in-cheapncheerful-Bulgaria.html>.

58. *Id.* According to one developer, a homebuyer in 2007 could find a high-quality building in the Bulgarian mountains for about one fifth of the price of comparable properties in other vacation hot spots like France or Austria. *Id.*

59. Treaty Between Member States of the European Union and the Republic of Bulgaria and Romania Concerning Accession to the European Union, Apr. 25, 2005, 2005 O.J. L/157 [hereinafter Treaty Between Member States of the European Union and the Republic of Bulgaria and Romania].

60. *Id.*

61. Liane Malcos Keister, *EU Enlargement and Admission into the Schengen Zone: Once a Fait Accompli, Now a Moving Target*, 36 SUFFOLK TRANSNAT'L L. REV. 117, 122-23 (2013).

tween E.U. law and domestic law would have to be addressed. In Bulgaria's case, the Accession Treaty permitted the country to temporarily retain its constitutional restrictions on ownership of secondary residences for up to five years from the date of accession.⁶² It also allowed Bulgaria to impose pre-existing limitations on foreign acquisition of agricultural and forestry land for up to seven years following accession.⁶³

However, the Accession Treaty made an exception for “[s]elf-employed farmers who are nationals of another Member State and who wish to establish themselves and legally reside in Bulgaria.”⁶⁴ Non-citizen self-employed farmers were not subject to the above restrictions “or to any procedures other than those to which nationals of Bulgaria” were subject.⁶⁵ In essence, this provision allowed foreign farmers with greater purchasing power to immediately buy Bulgarian land on equal terms with Bulgarian citizens upon accession. Furthermore, to comply with E.U. legislation, the Bulgarian government required all companies that had real estate assets to re-register by December 31, 2011.⁶⁶ The companies that failed to do so were obligated to cease their trade activities and could neither trade nor dispose of their assets.⁶⁷ Finally, the Bulgarian Constitution was amended to state that:

foreigners and foreign legal entities may acquire property over land under the conditions ensuing from Bulgaria's accession to the European Union, or by virtue of an international treaty that has been ratified, promulgated and entered into force for the Republic of Bulgaria, as well as through inheritance by operation of the law.⁶⁸

This amendment was one of the primary concessions that Bulgaria

Article 49 of the Maastricht Treaty provides the legal basis for E.U. enlargement. *Id.* at 123 n.40. The entire body of E.U. law is called the *acquis communautaire*. *Id.* at 122–23.

62. Treaty Between Member States of the European Union and the Republic of Bulgaria and Romania, *supra* note 59, at 108.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Overseas Property Owners*, *supra* note 54.

67. *Id.*

68. CONST. REPUBLIC OF BULGARIA, art. 22(1), Durzhaven Vestnik No. 56 (July 13, 1991), <http://www.parliament.bg/en/const>. In 2005, the Bulgarian Parliament amended Article 22 of the nation's Constitution to state:

Art. 22

(1) (amend., SG 18/05, in force from 1 January 2007) Foreigners and foreign legal entities may acquire property over land under the conditions ensuing from Bulgaria's accession to the European Union, or by virtue of an international treaty that has been ratified, promulgated and entered into force for the Republic of Bulgaria, as well as through inheritance by operation of the law.

(2) The law ratifying the international treaty referred to in para 1 shall be adopted by a majority of two thirds of all members of the Parliament.

(3) The land regime shall be established by law.

ceded to the Union during the negotiations.⁶⁹ These are just some of the results of the prolonged and complicated negotiation process that led to Bulgaria's entrance into the European Union.

D. *Economic Repercussions*

The erratic fluctuations of the Bulgarian property market in recent decades have critically impacted the nation's current real estate environment. The country's integration into the European Union has both positively and negatively changed its economy. According to proponents of the European Union, the liberalization of Bulgaria's domestic property and capital markets should increase land productivity; enhance access to assets, shared information, and technology resources; and stimulate economic activity within the European Union.⁷⁰ However, there remains a lively debate about whether such goals have actually been achieved, or whether they will come to fruition going forward.

Critics of the European Union have expressed concerns that an excessively rapid and overly-ambitious integration process risks unfavorable short-term outcomes.⁷¹ For example, structural imbalances in Bulgaria's economy at the time of accession have caused a real estate fire sale to foreigners interested in speculating and exploiting Bulgarian resources.⁷² Foreign media has often marveled at and promoted the cheap and attractive land market in Bulgaria that is now up-for-grabs to the rest of the world at unbeatable prices.⁷³ One 2007 article from the U.K. newspaper *The Telegraph* summarized the situation as such: "[l]oved or hated for it, cheapness is the reason you go to Bulgaria. Cheap beach holidays, cheap skiing, cheap flights and cheap food and drink."⁷⁴

69. See *Commission Opinion on Bulgaria's Application for Membership of the European Union*, EUR. COMM'N 16-17, 37, 46-47 (Jul. 15, 1997), http://ec.europa.eu/enlargement/archives/pdf/dwn/opinions/bulgaria/bu-op_en.pdf (discussing the European Commission's dissatisfaction with Bulgaria's constitutional limitations on foreign acquisition of real estate); see also Evgeni Tantchev, *National Constitutions and EU Law: Adapting the 1991 Bulgarian Constitution in the Accession to the European Union*, 6 EUR. PUB. L. 229, 240 (2000). As Tantchev observes, in contrast to ordinary legislative reforms, constitutional amendment requires a significantly more profound public discourse and consensus to materialize in democracies. *Id.* at 231.

70. See JOHAN F. M. SWINNEN & LIESBET VRANKEN, CTR. FOR EUR. POL'Y STUDIES, REVIEW OF THE TRANSITIONAL RESTRICTIONS MAINTAINED BY BULGARIA AND ROMANIA WITH REGARD TO THE ACQUISITION OF AGRICULTURAL REAL ESTATE 2, 6 (2010), http://ec.europa.eu/internal_market/capital/docs/bg_ro_land%20market_en.pdf.

71. *Id.* at 6.

72. *Id.*

73. Rosie Murray-West, *Snakes and Ladders: Beware the Cheap and Nasty Bulgarian Dream*, TELEGRAPH (Mar. 26, 2005), <http://www.telegraph.co.uk/property/propertymarket/propertymarketwatch/3340440/Snakes-and-ladders-Beware-the-cheap-and-nasty-Bulgarian-dream.html>.

74. Hall, *supra* note 57.

Hence, to prospective foreign buyers, it now appears that Bulgaria's prime real estate has finally been unleashed for the taking.

The halting transitional measures that Bulgaria's property market adopted for the sake of accession have seriously damaged the state's economy. Despite Bulgaria's transition to a democratic capitalist society, the nation still suffers from a severe housing shortage.⁷⁵ Moreover, Bulgarian citizens cannot afford to purchase land in their own country because their salaries have not kept up with the rising costs of housing and utility fees.⁷⁶ One of the most troubling problems is that Bulgarian citizens currently have some of the lowest individual income rates on the continent.⁷⁷ Additionally, Bulgarians' minimum wages and pensions also fall at the very bottom of the E.U. barrel.⁷⁸

Furthermore, Eurostat data reveals that in 2014, on average, 12.9 percent of Bulgarians "spent more than forty percent of their equivalised disposable income on housing."⁷⁹ Moreover, a staggering 40.8 percent of Bulgarian tenants who pay rent at market prices expended the same amount.⁸⁰ In contrast, 11.4 percent of the E.U. population on average expended this much, with a comparably lower 27.1 percent of E.U. ten-

75. See *Housing Statistics*, EUROSTAT (Nov. 2015), http://ec.europa.eu/eurostat/statistics-explained/index.php/Housing_statistics.

76. See *id.* (discussing housing cost overburden rate for E.U. Member States by tenure status).

77. See *GNI Per Capita, Atlas Method*, WORLD BANK, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD/countries/BG-7E-XT?display=default> (last visited Mar. 31, 2016) (demonstrating the disparity between Bulgaria's gross national income and other E.U. Member States).

78. *AFP: Minimum Wages Across the EU, with Lowest in Bulgaria*, FOCUS NEWS AGENCY (Apr. 1, 2016), <http://focus-fen.net/news/2016/04/01/402271/afp-minimum-wages-across-the-eu-with-lowest-in-bulgaria.html>; *Social Protection Statistics - Pension Expenditure and Pension Beneficiaries*, EUROSTAT (Dec. 2014), http://ec.europa.eu/eurostat/statistics-explained/index.php/Social_protection_statistics_-_pension_expenditure_and_pension_beneficiaries; *File: Total Pension Expenditure Per Beneficiary for Old-age Pensions, EU-28, 2012*, EUROSTAT (Jan. 2015), [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Total_pension_expenditure_per_beneficiary_for_old-age_pensions_EU-28_2012_\(in_Euro_and_PPS\).png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Total_pension_expenditure_per_beneficiary_for_old-age_pensions_EU-28_2012_(in_Euro_and_PPS).png).

79. *Housing Statistics, supra* note 75; *File: Housing Cost Overburden Rate by Tenure Status, (2014) (% of Population)*, EUROSTAT (2014), [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Housing_cost_overburden_rate_by_tenure_status_2014_\(%25_of_population\)_YB16.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Housing_cost_overburden_rate_by_tenure_status_2014_(%25_of_population)_YB16.png). Housing cost overburden rate is "the percentage of the population living in households where the total housing costs ('net' of housing allowances) represent more than 40 % of disposable income ('net' of housing allowances)." *Glossary: Housing Cost Overburden Rate*, EUROSTAT (last visited Mar. 31, 2016), http://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Housing_cost_overburden_rate. Eurostat is the official statistical office of the European Union. *Eurostat - Overview*, EUROSTAT, <http://ec.europa.eu/eurostat/about/overview> (last visited Mar. 31, 2016). Eurostat publishes data and analyses that enable statistical comparisons among Member States and regions. *Id.*

80. *File: Housing Cost Overburden Rate, supra* note 79.

ants who pay market price rent doling out this amount of money for housing.⁸¹ (The E.U. averages are also largely driven up by the difficult current economic situation in Greece, which appears to be an outlier in the data set.)⁸² In countries like Slovenia, for example, on average as few as 6.4 percent of the national population allocated a comparable portion of their income to housing.⁸³ Furthermore, the data reveals that 43.3 percent of the Bulgarian population currently suffers from overcrowding in dwellings.⁸⁴ This figure is more than double the E.U. average rate of 17.1 percent.⁸⁵

To make matters worse, Bulgarian nationals' purchasing power is one of the most meager in the European Union.⁸⁶ According to 2014 data, Bulgarians had the lowest actual individual consumption (AIC) of all 28 E.U. Member States—at fifty one percent below the E.U. average.⁸⁷ Additionally, 2014-2015 data shows that Bulgaria's unemployment rate is hovering between nine and eleven percent.⁸⁸ Considering these extraordinary socio-economic challenges, it is not surprising that Bulgarian citizens are finding it difficult to compete with foreigners on the international stage. These obstacles, coupled with the recent expiration of restrictions on foreign acquisition of real estate, reveal that Bulgarians will increasingly struggle to compete for resources on the domestic front as well.

E. Impact on Bulgaria's Agricultural Sector

Land acquisition rights have been a major concern for critics of Bulgaria's Accession Treaty.⁸⁹ The expiration of property market restrictions on foreigners' ability to acquire forested or unbuilt land has been a particularly contentious issue.⁹⁰ Since the fall of communism,

81. *Id.*

82. *Id.* (showing that 40.7 percent of all Greeks and 55.8 percent of Greek tenants paying market rent spend more than 40 percent of their equivalised income on housing).

83. *Id.*

84. *Housing Statistics*, *supra* note 75.

85. *Id.*

86. News Release, EUROSTAT, Consumption Per Capita in Purchasing Power Standards in 2014 (Dec. 11, 2015), <http://ec.europa.eu/eurostat/web/products-press-releases/-/2-11122015-BP>. "Actual Individual Consumption (AIC) is a measure of material welfare of households." *Id.* AIC is typically expressed in purchasing power standards (PPS). *Id.*

87. *Id.*

88. *Euro Area Unemployment Rate at 10.7%*, EUROSTAT (Dec. 1, 2015), <http://ec.europa.eu/eurostat/web/products-press-releases/-/3-01122015-AP>.

89. See Lazowski, *supra* note 15, at 425.

90. *Id.* During accession negotiations, Bulgaria requested a ten-year transitional period for its land acquisition restrictions. *Id.* The country posited the following rationale for its request: (1) The national land market was still developing; (2) the price of land in Bulgaria was significantly lower than land in E.U. Member States; (3) in comparison with E.U. citizens, Bulgarians'

Bulgaria's agricultural land parcels have been fragmented to the detriment of one of Bulgaria's biggest industries—agriculture.⁹¹ In 2010, the agricultural labor force represented twenty-two percent of the active population, one of the highest proportions in the European Union.⁹² According to a 2002 report from the Food and Agricultural Organization of the United Nations, the rapid sale of agricultural land has worsened parcel fragmentation in Bulgaria.⁹³ Land fragmentation first became a problem when Bulgaria embarked on a formal process of restitution after the fall of communism in the early 1990s.⁹⁴ Throughout this period, land that was taken away from nationals during the communist regime was slowly restored to its original owners.⁹⁵

Smaller, fragmented land parcels are problematic for several reasons. First, small parcels hinder the implementation of new farming technologies and production patterns.⁹⁶ These parcels tend to be more dispersed, which means that they often inhibit special planning and management.⁹⁷ Second, larger land parcels allow farmers to use less intensive and more efficient methods of production.⁹⁸ Thus, increased land fragmentation and dramatic land use alterations deeply impact Bulgaria's agricultural sector. Land fragmentation may appear to be a natural consequence of modern industrialization, but it is occurring much more rapidly as a consequence of E.U. integration and is happening at a pace that the Bulgarian economy cannot easily accommodate.

F. Cultural Consequences

Bulgaria's abundance of undeveloped land parcels and recreational

low income put them at a disadvantage for purchasing land; (4) a uniform land cadaster and a property register had not yet been completed; and (5) after the completion of land restitution, a process of land consolidation was under way. *Id.*

91. Eur. Parl. Directorate Gen. for Internal Policies, *Private Properties Issues Following the Change of Political Regime in Former Socialist or Communist Countries*, PE 425.609, 80 (Apr. 2010), [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425609/IPOL-PETI_ET\(2010\)425609_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425609/IPOL-PETI_ET(2010)425609_EN.pdf); see also NAT'L STATISTICAL INST., STATISTICAL REFERENCE BOOK 2014, 14, 46 (2014) (Bulg.), http://statlib.nsi.bg:8181/en/fulltext.php?content=/FullT/FulltOpen/SRB_ENG_7_2013_2014.pdf (showing the significant amount of Bulgaria's territory that is devoted to agriculture).

92. *Agricultural Census in Bulgaria*, EUROSTAT (Nov. 2012) http://ec.europa.eu/eurostat/statistics-explained/index.php/Agricultural_census_in_Bulgaria.

93. FOOD & AGRIC. ORG, LAND FRAGMENTATION AND LAND CONSOLIDATION IN THE AGRICULTURAL SECTOR 4 (Feb. 25–28, 2002), http://www.fao.org/fileadmin/user_upload/Europe/documents/Events_2002/Land2002/bulgaria_aper.pdf.

94. *Id.* at 4–5.

95. *Id.*

96. *Id.* at 4.

97. *Id.*

98. *Id.*

hot spots, mild Mediterranean weather, and relatively low cost of living as compared to other E.U. Member States have attracted many new foreign investors in recent years.⁹⁹ The nation's rural villages have been particularly appealing to western Europeans, who seek vacation or retirement homes in the Balkan countryside.¹⁰⁰ Of all foreign buyers in Bulgaria, over sixty percent of them are British citizens, attracted to the region by low real estate prices.¹⁰¹ In fact, in the past decade, Bulgaria has been touted by developers and international media as “the new Spain for British retirees”.¹⁰² According to one 2009 article from the Bulgarian news agency *Novinite*, “[s]ome 30,000 or more U.K. nationals leave the country permanently every year” and one of their primary destinations is Bulgaria.¹⁰³ In 2006, Bulgarian real estate prices were reportedly rising by twenty percent each year.¹⁰⁴

One characteristic example of this influx of foreigners to Bulgaria is the small township of Rujitza, located in the southeast corner of Bulgaria.¹⁰⁵ In Rujitza, almost thirty percent of the village is now owned by British expatriates, with English speakers soon threatening to outnumber native Bulgarians.¹⁰⁶ However, the British immigrants who moved to the village and drove up housing prices are now being replaced by a new wave of foreign buyers—primarily from Russia and other European states.¹⁰⁷ This sudden influx of foreigners into rural Bulgaria, fueled by real estate investment opportunities, has caused significant cultural and economic tensions in Bulgarian communities.¹⁰⁸

Both domestic and foreign media frequently report on cultural clashes in Bulgaria involving E.U. citizens. Some Bulgarian nationals have been very vocal about their resentment of the steady stream of new immigrants.¹⁰⁹ Individuals who move to Bulgaria oftentimes have difficul-

99. Alison Gregor, *House Hunting . . . In Bulgaria: Real Estate in Bulgaria*, N.Y. TIMES (Aug. 27, 2014), <http://www.nytimes.com/2014/08/28/greathomesanddestinations/real-estate-in-bulgaria.html>.

100. See Hall, *supra* note 57; see also Grainger Laffan, *Why the Brits are Buying up Bulgaria*, TELEGRAPH (Oct. 3, 2006, 12:01 AM), <http://www.telegraph.co.uk/finance/property/3353402/Why-the-Brits-are-buying-up-Bulgaria.html>.

101. See Hall, *supra* note 57.

102. See Laffan, *supra* note 100.

103. *British Expats in Bulgaria: We Came Here “Just to Live Our Dream”*, NOVINITE (Oct. 16, 2009), <http://www.novinite.com/newsletter/print.php?id=109685>.

104. Laffan, *supra* note 100.

105. *Id.*

106. *Id.*

107. Gregor, *supra* note 99.

108. See, e.g., *Violent Gang Arrested in Bulgaria After Series of Raids on British Expat Homes*, DAILY MAIL (Feb. 19, 2009), <http://www.dailymail.co.uk/news/article-1150133/Violent-gang-arrested-Bulgaria-series-raids-British-expat-homes.html>.

109. See *British Expats in Bulgaria*, *supra* note 103.

ty adjusting to the local culture and do not speak the Bulgarian language.¹¹⁰ Statistics show that British expatriates tend to hale from inner-city regions of the United Kingdom, with the majority moving to areas in rural Bulgaria.¹¹¹ Moreover, some reports indicate that many of these immigrants are unemployed—further straining the Bulgarian economy and heightening tensions.¹¹² News stories frequently appear in the Bulgarian national press regarding incidents of corruption, intimidation, criminality, and violent deaths among the expatriate community.¹¹³

In one case, a small group of expatriates living in the village of Klimentovo suffered a series of thefts.¹¹⁴ In their frustration over the investigation that local authorities conducted, the expatriates ended up in a violent altercation with the regional police.¹¹⁵ In another incident, a mayor in the Bulgarian district of Yambol referred to local expatriates as “scum” and “rubbish” when speaking to the media.¹¹⁶ The government leader reportedly asserted that, “the decent ones [expatriates] are not coming here [to Bulgaria].”¹¹⁷ Although some of these incidents are an unsurprising consequence of the integration of a traditionally closed-off society into a larger, more diverse European community, these tensions are further exacerbated by some people’s perception that Bulgarians are being robbed of their heritage and their sovereignty.¹¹⁸ In some cases, buyers who lack the haziest idea where many of these villages are located are now rushing to take advantage of the undervalued real estate in a continuously struggling fledgling democracy.¹¹⁹

G. National Concerns

In a desperate response to these challenges, the Bulgarian Parliament passed legislation in October 2013 attempting to extend the real property acquisition restrictions specified in Bulgaria’s Accession Treaty until the year 2020.¹²⁰ Of the 240 Bulgarian deputies seated in the chamber,

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

118. See *British Expats in Bulgaria*, *supra* note 103.

119. See Murray-West, *supra* note 73.

120. Clive Leviev-Sawyer, *Bulgarian Parliament Adopts Ataka Motion to Extend to 2020 Ban on Selling Land to Foreigners*, SOFIA GLOBE (Oct. 22, 2013), <http://sofiaglobe.com/2013/10/22/bulgarian-parliament-adopts-ataka-motion-to-extend-to-2020-ban-on-selling-land-to-foreigners>.

171 voted in favor of the extension.¹²¹ Twelve members abstained and 38 voted against the measure.¹²² The legislation was spurred by the extremely right-wing Bulgarian political party “Ataka.”¹²³ Ataka is known for its ultranationalist policy goals and anti-E.U. rhetoric.¹²⁴ Party representatives have stated that the government must prevent “the plundering of Bulgaria’s most valuable resource”—its land.¹²⁵ Ataka leader, Volen Siderov, expressed his concern that Bulgarians “would wake up as foreigners” in their own country if the transitional measures were not extended.¹²⁶ Another politician argued on the floor of Parliament that “seventy percent” of Bulgarians supported extending the property acquisition restrictions that were part of Bulgaria’s transitional accession phase.¹²⁷ These manifestations of rancor are only the latest in what has become a hotly contested debate over real estate rights.

Nevertheless, in January 2014, the Bulgarian Supreme Court overruled Parliament’s bill.¹²⁸ The Court expressed its view that the bill contradicts E.U. law.¹²⁹ The Court stated that the “Parliament breached basic constitutional principles—that Bulgaria has a rule of law . . . governed by the Constitution and the law of the European Union.”¹³⁰ The Supreme Court’s decision was hardly surprising to most Bulgarians, given that even the nation’s Prime Minister had stated that the legislation was “a bad decision” and needed to be “reviewed.”¹³¹ While the Bulgarian government clearly recognizes the cultural and economic tensions that have emerged over property acquisition rights and is attempt-

121. Nikolaj Nielsen, *Bulgarian Land Sale Ban Risks EU Sanction*, EU OBSERVER (Oct. 24, 2013, 9:25 AM), <https://euobserver.com/political/121886>.

122. *Id.*

123. *Id.*

124. *Political Party Ataka: Ataka’s 20 Principles*, ATAKA, http://www.ataka.bg/en/index.php?option=com_content&task=view&id=14&Itemid=27 (last visited Mar. 31, 2016). The party’s website lists twenty specific platform issues. *Id.* Some measures that the party purportedly endorses include a prohibition on state-sponsored broadcasts in foreign languages, the precedence of Bulgarian investors, entrepreneurs, and manufacturers over foreign ones, a ban on the sale of arable land to foreigners, withdrawal of Bulgarian troops from Iraq, rescission of the country’s NATO membership, and a move away from IMF and World Bank programs and policies. *Id.* Mentioned at the bottom of this list is the party’s slogan: “Let’s regain Bulgaria for the Bulgarians!” *Id.*

125. Leviev-Sawyer, *supra* note 120.

126. *Bulgarian Government Echoes Ataka Call for Extending Ban on Sale of Farmland to Foreigners to 2020*, SOFIA GLOBE (Sept. 19 2013), <http://sofiaglobe.com/2013/09/19/bulgarian-government-echoes-ataka-call-for-extending-ban-on-sale-of-farmland-to-foreigners-to-2020>.

127. Leviev-Sawyer, *supra* note 120.

128. *Bulgarian Court Annuls Ban on Land Sales to Foreigners*, EUBUSINESS (Jan. 28, 2014), <http://www.eubusiness.com/news-eu/bulgaria-property.tcm>.

129. *See id.*

130. *Id.*

131. *Id.*

ing to respond to its citizens' concerns, thus far, its efforts have been ineffective.

II. ANALYSIS

Supporters of the European Union's rapid liberalization of Bulgaria's property market often claim that their critics are simply opposed to E.U. integration and foreign investment. However, such claims are unfounded and inaccurate. Bulgaria has actually been quite hospitable to foreign investors in recent years. This conclusion is succinctly stated in the first line of a June 2014 memorandum from the United States Department of State concerning Bulgaria's investment climate.¹³² The memorandum stated that "Bulgaria has a favorable foreign investment regime, including government incentives for new investment and low and flat corporate and income taxes."¹³³ The U.S. Department of State also concluded the following:

At present, there are no general limits on foreign ownership or control of firms, nor means of screening or restricting foreign investment in Bulgaria. Foreign firms are not denied national treatment and there are no significant reports of discrimination against foreign investors. . . . Generally sound economic performance and relative political stability have enabled Bulgaria to attract leading foreign investors. Gradual convergence with the EU common market, fiscal prudence, and a national currency pegged to the Euro have provided stability and incentives for increased trade and investment.¹³⁴

This determination is consistent with Bulgaria's reputation as a fertile ground for new investment, dating back as far as the country's economic rebirth in the 1990s. The American magazine *Newsweek's* June 29, 1992 issue promoted Bulgaria as "Eastern Europe's new frontier of economic growth" and called the small nation Eastern Europe's "best kept secret."¹³⁵ As such, allegations that the Bulgarian government is actively opposed to foreign investment are unfounded. While a full analysis of the hospitality of the Bulgarian economy for foreign investment is beyond the scope of this Note, considering this investment climate is important to understanding this Note's proposition that Bulgarians deserve a chance to compete for real estate in their own country equitably with their new E.U. counterparts.

132. U.S. DEP'T OF STATE, 2014 INVESTMENT CLIMATE STATEMENT 1 (June 2014), <http://www.state.gov/documents/organization/227132.pdf>.

133. *Id.* The memorandum states that "[p]romising sectors for foreign investors include: information technology, telecommunications, environmental technology (including water and waste water infrastructure), healthcare, biomass, and agriculture (including the beverage/processed foods industry)." *Id.*

134. *Id.* at 1–2.

135. Scott R. Safranski et al., *What Went Wrong in Bulgaria? Experience with Bulgaria's Foreign Investment and Privatization Laws*, 9 INT'L LEGAL PERSP. 1, 1 (1997).

To allow for more balanced competition, it is necessary to reexamine the European Union's approach to its community accession requirements. In particular, the European Union should pass legislation to help stabilize Bulgaria's reeling property market in the wake of forced liberalization. Furthermore, future E.U. accession treaties should tie the expiration of real estate market restrictions to the candidate country's average national income or per capita purchasing power. A similar, but more extreme proposal has already been made by Bulgaria's political party Ataka.¹³⁶ However, it is possible to strike a balance between avoiding restraints on foreign investment and enhancing Bulgarian nationals' floundering standard of living.

The country's struggle to balance foreigners' rights to purchase and invest in E.U. land with domestic interests to preserve Bulgaria's cultural identity and stabilize its economy is a complex problem. However, it is not necessarily a unique one. Other E.U. Member States have faced similar challenges upon their own accession. Before Bulgaria and Romania joined the European Union in 2007, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, and Slovakia had already made the transition.¹³⁷ All seven countries, each a former member of the Eastern Bloc, were granted transitional periods in their accession negotiations, throughout which they could maintain some existing restrictions on foreign acquisition of agricultural or forest land.¹³⁸

Furthermore, Bulgaria has not been alone in exchanging angry rhetoric with the European Union, as many of these Member States fought and continue to fight against some of the imposed measures regarding property law reform.¹³⁹ An analysis of several of these case studies illuminates both the successes and failures in reconciling foreign and

136. See *Political Party Ataka: Ataka's 20 Principles*, *supra* note 124. Item number six of the party's political platform announces the following intention: "Every Bulgarian investor, entrepreneur, and/or manufacturer shall have precedence over any foreign one, up until Bulgaria's living standards reach the average European level. Bulgaria's production, commerce, banks and all other means of production should be in Bulgarian hands." *Id.* This Note neither endorses the political views of the Ataka party, nor advocates for such an extreme approach. A more nuanced discussion on GDP and income-related assessment with regard to real estate acquisition is described herein.

137. JOHAN F. M. SWINNEN & LIESBET VRANKEN, CTR. FOR EUR. POL'Y STUDIES, REVIEW OF THE TRANSITIONAL RESTRICTIONS MAINTAINED BY NEW MEMBER STATES ON THE ACQUISITION OF AGRICULTURAL REAL ESTATE 1 (2009), http://ec.europa.eu/internal_market/capital/docs/study_en.pdf.

138. *Id.*

139. See European Commission Press Release IP/14/1152, Free Movement of Capital: Commission Opens Infringement Procedure Against Hungary on Rights of Cross-Border Investors to Use Agricultural Land (Oct. 16, 2014), http://europa.eu/rapid/press-release_IP-14-1152_en.htm; see also *Czech Agricultural Chamber Complains of Foreign Land Grab*, RADIO PRAHA (June 25, 2009), <http://www.radio.cz/en/section/curraffrs/czech-agricultural-chamber-complains-of-foreign-land-grab>.

domestic priorities and suggests new approaches for Bulgaria and the European Union to consider in repairing the country's ailing real estate market.

A. Case Studies

In the past two decades, seven new E.U. Member States have been granted transitional derogations on the acquisition of agricultural property by non-residents.¹⁴⁰ The European Commission allowed four of these states an extension on their derogations for a further three years from the negotiation of the agreement (i.e. until April, 30, 2014).¹⁴¹ Two other Member States were granted transitional periods that expired on April 30, 2011.¹⁴² Like Bulgaria, these countries are still struggling to strike a balance between investing in the free movement of capital and ensuring that their national assets are not seized from beneath their feet.¹⁴³ What follows is a critical analysis of the experiences of two of these states, Hungary and Romania, and their E.U. accessions.

1. Lessons from Hungary

Hungary's journey to E.U. accession is particularly compelling and provides valuable insight into a possible solution for Bulgaria. When Hungary officially joined the European Union in 2004, it had some of the most severe restrictions on foreign land acquisition in the region.¹⁴⁴ Purchasers of farmland were required to demonstrate that they were trained or experienced in agriculture and actively farming.¹⁴⁵ Local land committees had to approve all property sale transactions, while limits remained on both parcel sizes and the total area of land that an

140. *Capital Movements and Investments in the EU, Commission Services' Paper on Market Monitoring 3* (Eur. Comm'n Staff Working Document No. SWD (2012) 6 final, Feb. 3, 2012) [hereinafter Eur. Comm'n Staff Working Document], http://ec.europa.eu/internal_market/capital/docs/reports/120203_market-monitoring-working-document_en.pdf.

141. *Id.* These four states include Hungary, Latvia, Lithuania and Slovakia. *Id.* The European Commission is the executive body of the European Union. *About the European Commission*, EUR. COMM'N, http://ec.europa.eu/about/index_en.htm (last visited Mar. 31, 2016). It represents the interests of the European Union as a whole. *Id.* There are currently 28 serving Commissioners, one from each Member State. *Id.*

142. Eur. Comm'n Staff Working Document, *supra* note 140, at 11. These two states were the Czech Republic and Estonia. *Id.*

143. *See generally* TRANSNAT'L INST. FOR EUR. COOPERATION, LAND CONCENTRATION, LAND GRABBING, AND PEOPLE'S STRUGGLES IN EUROPE (2013) [hereinafter LAND CONCENTRATION], https://www.tni.org/files/download/land_in_europe-jun2013.pdf (discussing problems with land distribution and property acquisition in various European countries).

144. Tom Arthey, *New Restrictions Dash Hopes of Liberalised Hungarian Farmland Market*, MINTRIDGE INT'L (May 23, 2014), <http://www.mintridgeinternational.com/new-restrictions-dash-hopes-of-liberalised-hungarian-farmland-market>.

145. *Id.*

individual or a group could purchase.¹⁴⁶ The European Union expected that these restrictions would expire at the end of Hungary's transitional period in April 2014.¹⁴⁷ However, a dissatisfied Hungarian government sought a different outcome.

Hungary's politicians recently enacted new legislation, which appears to treat all E.U. citizens equally, but will effectively continue a nationalist property regime.¹⁴⁸ Hungary still requires all farmland purchasers to be trained or experienced in agriculture and to be actively engaged in farming.¹⁴⁹ Non-farming investors are prohibited from buying land, and restrictions remain on ownership by agricultural companies.¹⁵⁰ Regional committees composed of local farmers must still approve all land transactions.¹⁵¹ Local farmers also have preemption rights to purchase the property in question themselves.¹⁵² Additionally, Hungary has imposed limits on the size of each land parcel (300 hectares) and on the total amount of land (normally 1,200 hectares) that can be owned by an individual or a group.¹⁵³

Despite these challenges, foreign investors have found ways to circumvent Hungary's attempts to prevent land speculation.¹⁵⁴ Reportedly, Hungary has surrendered "more than 1 million hectares, through 'pocket contracts', illegal land deals where the date of purchase remains unspecified and the contract is kept 'in the pocket' until the moratorium on land sales is lifted."¹⁵⁵ In such cases, the "sale" is not actualized on paper until the unfavorable buying restrictions expire.¹⁵⁶ As a consequence of this foreign speculation, the Hungarian government believes that its protectionist measures are entirely justified. However, other E.U. members, such as Austria, have criticized Hungary's protectionist attitude and defended their farmers who have emigrated to the fertile re-

146. *Id.*

147. See European Commission Press Release IP/10/1750, Commission Grants Hungary Extension of Transitional Period for the Acquisition of Agricultural Land (Dec. 20, 2010), http://europa.eu/rapid/press-release_IP-10-1750_en.htm?locale=en.

148. See Arthey, *supra* note 144.

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.*

154. See, e.g., Attila Szocs, *Moratoriums on Land Sale: Member States Battle EU*, AGRIC. & RURAL CONVENTION 2020 (Oct. 27, 2013), <http://www.arc2020.eu/front/2013/10/moratoriums-on-land-sale-member-states-battle-eu-while-corporations-plough-on> (describing how multinational corporations and other businesses have worked around moratoriums on land sales in new E.U. Member States).

155. *Id.*

156. See *id.*

gion, waiting to sign their contracts.¹⁵⁷ Regardless of the propriety of protectionist measures, an undeniable consequence of pocket contracts and other improper deals is that an estimated sixteen percent of Hungary's agricultural land is now in the hands of multinational agribusiness and oligarchs.¹⁵⁸

The European Commission formally commenced legal action against Hungary regarding the passage of this legislation on October 16, 2014.¹⁵⁹ In a written statement, the Commission asserted that "Hungarian legislation has restricted the rights of cross-border investors in a way that may violate E.U. law on free movement of capital and freedom of establishment."¹⁶⁰ The European Commission also "decided to formally request Hungary to submit its observations on its legislation terminating certain contractual rights of investors to use agricultural land."¹⁶¹ The European Union's displeasure with Hungary has thereby escalated into a legal battle.

Hungary's response to the Commission's statement was swift and unequivocal. Hungarian Minister of State from the Ministry of Agriculture, Attila István Simon, asserted that "[t]he conscience of the Hungarian Government is clear; it will protect Hungarian farmland from speculators."¹⁶² Furthermore, Hungary's Prime Minister, Viktor Orbán, bluntly stated that "Hungarian agricultural land will be owned by Hungarians."¹⁶³ The Prime Minister has not been shy about standing up to the European Union, despite risking potential condemnation by the European Court of Justice for his country's nationalist policies.¹⁶⁴

In the case of Bulgaria, it is not apparent that imposing the same re-

157. See Gergely Szakacs, *Hungary's Farmland Clampdown Risks New Conflict with EU*, REUTERS (Mar. 7, 2014, 8:43 AM), <http://www.reuters.com/article/us-hungary-farmland-idUSBREA260UH20140307>; see also Jan Strupczewski, *EU Commission Sues Hungary Over Foreigners' Right to Buy Farmland*, REUTERS (Oct. 16, 2014, 7:14 AM), <http://www.reuters.com/article/2014/10/16/us-eu-hungary-land-idUSKCN01518Z20141016> (discussing a lawsuit filed by the E.U. Commission contesting the legality of Hungary's farmland policies).

158. Szocs, *supra* note 154.

159. European Commission Press Release IP/14/1152, *supra* note 139.

160. *Id.*

161. Strupczewski, *supra* note 157.

162. MTI Hungarian News Agency, *Hungary Will Defend the Land Act*, WEBSITE OF THE HUNGARIAN GOV'T: MIN. OF AGRIC. (Oct. 17, 2014, 12:24 PM), <http://www.kormany.hu/en/ministry-of-agriculture/news/hungary-will-defend-the-land-act>.

163. Grigore Silasi, *The Liberalization of the Land Market in Romania Economical, Social, Juridical, and Political Implications*, 16 ANALS-ECONOMY SERIES 21, 28 (2013), http://www.universitateaEuropeanaDragan.ro/images/imguploads/cercetare_ued/journal_annals_economy_series/journal_annals_no_16_2013/the_authors/dumitru_adrian_craciunescu.pdf.

164. See R. Daniel Kelemen, *Europe's Hungary Problem: Viktor Orbán Flouts the Union*, FOREIGN AFFAIRS (Sept. 20, 2015), <https://www.foreignaffairs.com/articles/europe/2015-09-20/europes-hungary-problem>.

restrictions on land purchases would be necessary, or even wise. For example, obvious conflicts of interest arise from allowing local landowners to approve all land transactions, while also having the ability to purchase the same plots themselves. The possibility of bribery and corruption looms large under such systems. However, some of the measures implemented by Hungary, such as limiting the size of land parcels that can be purchased, regardless of nationality, are potential solutions to the speculation problem that may be implemented in Bulgaria as well.

Furthermore, necessitating involvement of local officials in land transactions promotes a healthy level of dialogue and transparency regarding a buyer's motivations and purpose for the land. Additionally, the enactment and enforcement of strict penalties for the use of pocket contracts with unspecified dates of acquisition should be a top priority for the Bulgarian government. This is especially pressing because many real estate purchases are sure to be dated for 2014 or beyond now that the Bulgarian transitional period has officially expired. This Note does not advocate any actions in contradiction of E.U. laws. However, it does advocate for comprehensive discussions with E.U. leadership regarding domestically permissible alternatives to help stem the exploitation of Bulgaria's vulnerable real estate market.

2. Lessons from Romania

Another useful case study on the ability of an E.U. candidate state to delay the liberalization of its property market is that of Romania, Bulgaria's next-door-neighbor. Romania joined the European Union on the same accession timeline as Bulgaria.¹⁶⁵ This state has also resisted the Union's efforts to fully liberalize its real estate market.¹⁶⁶ Like Bulgaria, Romania has a low per capita income, meaning its citizens have drastically reduced purchasing power compared to other Member States.¹⁶⁷ Also like Bulgaria, agriculture makes up a significant portion of Romania's economy.¹⁶⁸ Despite the expiration of Romania's real estate acquisition restrictions on January 1, 2014, Romania has also con-

165. Treaty Between Member States of the European Union and the Republic of Bulgaria and Romania, *supra* note 59.

166. See Pierre Souchan, *Back to the Land in Romania*, LE MONDE DIPLOMATIQUE (Feb. 2014), <http://mondediplo.com/2014/02/09romania> (discussing Romania's struggle to maintain its traditional farming policies and the impact of foreigners' competition for domestic land).

167. See *GDP Per Capita*, WORLD BANK, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (last visited Mar. 31, 2016). In 2014, Romania and Bulgaria's per capita incomes in USD were \$9,996.7 and \$7,851.3 respectively. *Id.*

168. See Souchan, *supra* note 166.

tinued to pass protectionist legislation.¹⁶⁹ In March 2014, Romania's government enacted Law No. 17/2014,¹⁷⁰ which granted broad preemption rights to certain categories of Romanian citizens regarding the purchase of *extravilan* land, parcels outside of a town plan.¹⁷¹

According to this law, preemption rights are granted in descending order to the following: co-owners, leaseholders, owners of neighboring land, and the Romanian state through the Domains of the State Agency.¹⁷² To allow these individuals or the state to exercise their right of preemption, all sellers of *extravilan* land parcels must record their purchase agreement with the regional town hall so that the public can be informed of the pending sale.¹⁷³ The sale notice will then be posted locally and online, after which individuals who are entitled to preempt the sale will have thirty days to indicate in writing to the seller that they intend to purchase the parcel.¹⁷⁴ Romanian authorities insist that the reason behind these new limitations is to ensure that the government is "able to step in when the circumstances require it or the situation threatens to deteriorate one way or another."¹⁷⁵ Furthermore, the government has also required that preemption holders commit to the same price and equal terms as the prospective purchaser.¹⁷⁶ Under the new law, the Romanian National Defence Ministry must approve all sales of "farming land within 30 kilometers of national borders or the Black Sea coast, or land located within 2.4 kilometers of strategic sites."¹⁷⁷ Thus, much like Hungary, the Romanian government continues to robustly exert control over its land acquisition processes.

Bulgaria can and should implement some of the same safeguards that Romania has devised to protect its property market from harmful land speculation and the concentration of Bulgarian land in foreign hands. It may be prudent for Bulgaria to reserve similar preemption rights for its

169. Romanian Law No. 17/2014, OFFICIAL GAZETTE, Part I, No. 178 (Mar. 12, 2014), http://www.dreptonline.ro/legislatie/legea_17_2014_masuri_reglementare_vanzare_cumparare_terenuri_agricole_extravilan_modificare_legea_268_2001_privatizarea_societatilor_comerciale_terenuri_proprietate_publica.php.

170. *Id.*

171. Nicholas Hammond, *Romanian Agricultural Land For Sale*, ROMANIAN L. BLOG (Sept. 1, 2014), <http://romania-lawblog.com/agricultural-land-for-sale>.

172. *Id.*

173. *Id.*

174. *Id.*

175. Corina Cristea, *Regulations on Agricultural Land in Romania*, RADIO ROMANIA INT'L (July 3, 2014, 1:14 PM), http://www.rri.ro/en_gb/regulations_on_agricultural_land_in_romania-14181.

176. *Id.*

177. *Id.*

own government and specified domestic actors, perhaps in regions that may have national security value or have potential to become national parks. The government may also wish to impose zoning laws or construction quotas for properties located in highly coveted regions. These restrictions can apply equally to domestic and foreign buyers so that they are not discriminatory and thereby do not offend fundamental E.U. values. Such restrictions are not only important to preserve the integrity of the Bulgarian agricultural sector, but also to protect Bulgaria's rich natural resources.

B. *European Union Solutions*

In addition to Bulgarian enactment of additional real estate protection laws, the European Union can also protect new Member States from speculators through the enforcement of uniform zoning measures across the region. In Bulgaria, the Balkan Mountains and Black Sea coastal areas are especially popular development sites because of their natural beauty and lucrative value as vacation hot spots.¹⁷⁸ In comparison with other E.U. Member States with similar climates and attractions, vacationing in Bulgaria is markedly cheaper and has attracted thousands of tourists in recent years, making these areas especially vulnerable to exploitation by investors.¹⁷⁹ Accordingly, the European Union should place temporary restrictions on the types of properties that foreigners may purchase in these regions, limiting real estate purchases to residential and small-business uses. These are just some of the practical measures that can be taken to ease Bulgaria's transition in the aftermath of its tumultuous accession.

It is also vital to prevent such inequities from arising in future accession negotiations.¹⁸⁰ Since Croatia joined the European Union on July 1, 2013, no other states have acceded.¹⁸¹ Nevertheless, several countries are currently waiting to join the alliance: Albania, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Turkey have all been recognized by the European Council as candidate states.¹⁸²

178. See LAND CONCENTRATION, *supra* note 143, at 178–80 (describing land grabbing by foreigners in Bulgaria for investment in the tourism industry); see also Ben Richardson, *Expats Risking it all in Bulgaria*, BBC (Dec. 11, 2006), <http://news.bbc.co.uk/2/hi/business/6210430.stm>.

179. Hanna Pini, *Bulgaria Found to Be Cheapest European Destination*, TELEGRAPH (Apr. 23, 2012, 11:29 AM), <http://www.telegraph.co.uk/travel/travelnews/9220752/Bulgaria-found-to-be-cheapest-European-destination.html>; *Looking for a Bargain Holiday? Head to Sunny Beach, Bulgaria, But Forget Italy*, DAILY MAIL (Apr. 25, 2014), <http://www.dailymail.co.uk/travel/article-2612886/Cheapest-holiday-destinations-Head-Sunny-Beach-Bulgaria-bargain-forget-Italy.html#ixzz3H7RF3TQn>.

180. *Economic and Financial Affairs*, *supra* note 10.

181. *Id.*

182. *Id.* The European Council, composed of the heads of state or government of all E.U.

In the future, a Member State's expiration of land restrictions should be affiliated with the country's per capita annual income or its citizens' purchasing power. For example, in its 2010 progress report on the efficacy of Bulgaria and Romania's land sale moratoriums, the European Commission reported that the gap in personal income and land prices in Bulgaria and Romania, as compared to other E.U. Member States, was still considerable and "well short of complete convergence."¹⁸³ Nevertheless, the Commission admitted that "a narrowing of this gap was neither expected nor was it seen as a necessary condition for terminating the derogations."¹⁸⁴

The decision by the Commission not to tie the duration of land restrictions to economic indicators was arbitrary and unjust. One of the greatest incentives for Bulgaria to join the European Union was to raise the country's standard of living and to boost its economy.¹⁸⁵ As such, the European Commission's blatant admission that the massive gap in per capita income and land prices in Bulgaria is acceptable seems like a cruel slap in the face for the Union's newest Member States. Property acquisition restrictions on foreigners should not expire based on arbitrary timeline assessments; they should expire when the country's per capita GDP growth approaches the average income level of citizens living in other E.U. Member States. Alternatively, transitional measures should terminate only when nationals' purchasing power with regard to real estate approaches some equivalency to that of other E.U. citizens.

The solution proposed above can ensure that real estate prices are not suddenly unaffordable to a poorer Member State's citizens, while still promoting the free flow of capital throughout the European Union. Such an approach would result in the emergence of a more balanced and diverse array of ownership within the new Member State, and simultaneously would reduce or avoid the challenges of land speculation and severe culture shock created by a sudden influx of foreigners.¹⁸⁶

Nevertheless, the likelihood of Bulgaria's Accession Treaty being amended is very low due to the complicated and burdensome amend-

countries, the European Commission President, and the High Representative for Foreign Affairs & Security Policy, is one of the primary decision-making bodies of the European Union. *The European Council*, EUR. COUNCIL, <http://www.consilium.europa.eu/en/european-council> (last visited Mar. 31, 2016).

183. *Report from the Commission to the Council: Review of the Transitional Measures Regarding the Acquisition of Agricultural Real Estate Foreseen in the Accession Treaty of 2005*, at 2, 10, COM (2010) 734 final (Dec. 14, 2010), http://ec.europa.eu/internal_market/capital/docs/com2010-734_en.pdf.

184. *Id.*

185. *See Frustration at Slow Progress in EU*, FIN. TIMES (June 18, 2009, 5:52 PM), <https://next.ft.com/content/df055168-5c20-11de-aea3-00144feabdc0>.

186. *See supra* Part I, Section F.

ment process, which mandates consideration and ratification of the changes by all parties to the agreement.¹⁸⁷ Consequently, Bulgaria should seek to enact domestically some of the short-term measures adopted by Hungary and Romania, described above, to alleviate the current tensions in the state's real estate market.¹⁸⁸ The benefits of E.U. membership are many, but the pitfalls of sudden and expansive deregulation of the local property market are already being felt by a frustrated Bulgarian citizenry. If an objective of the European Union is to better the welfare of all of its citizens, then it must begin to pay attention to the specialized needs of each of its Member States.

C. *Territoriality as an Expression of State Sovereignty*

Bulgarian citizens hoped that E.U. integration would “improve productivity, enhance access to capital, technology and knowledge, and, hence, stimulate economic development.”¹⁸⁹ However, this dream has fallen short of expectations, partly because real estate cannot simply be viewed as another exchangeable commodity. Land is fundamentally related to a nation's identity.¹⁹⁰ It is a well-established principle of international law that a country's sovereignty is largely defined by its territoriality.¹⁹¹ Territoriality implies that a state has control over the land within its own borders.¹⁹²

Opening up Bulgarian land to the type of speculative frenzy that has resulted from E.U. accession negotiations is repugnant to the state's identity. Not only is the sweeping fire sale of Bulgarian soil a serious political issue, but it is also demeaning to a culture which relies so heavily on its land for agricultural production.¹⁹³ The consequences of Bulgaria's newly liberalized real estate market are an affront to the citizens who proudly belted out Bulgaria's national anthem on December 31, 2006 in Battenberg Square, celebrating the splendor of their homeland.¹⁹⁴ For Bulgaria to surrender the very essence of its statehood to

187. See *Summary - Revision of EU Treaties*, EUR-LEX, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aai0013> (last visited Mar. 31, 2016).

188. See *supra* Part II, Section A.

189. SWINNEN & VRANKEN, *supra* note 70, at 2.

190. See RESTATEMENT (THIRD) ON FOREIGN RELATIONS LAW OF THE UNITED STATES, Vol. 1, §§ 201–13 (1987) (declaring that “[u]nder international law, a state is an entity that has a defined territory and a permanent population, under the control of its own government, and that engages in, or has the capacity to engage in, formal relations with other such entities.”).

191. See *id.*

192. See *id.*

193. Safranski, *supra* note 135, at 7. This article's authors state that, “Due to the fact that Bulgarians believe that land is the greatest asset of the Bulgarian people, the government will not allow agricultural land to be purchased by foreigners.” *Id.*

194. Kolev, *supra* note 3. The Bulgarian national anthem (“Dear Motherland”) speaks of the country's gorgeous “proud Balkan mountains,” the sparkling “Danube,” and the boundless “beau-

foreigners in a cheap and unrestrained manner is not the dream that the nation's citizens had envisioned on the eve of Bulgaria's accession to the European Union.

CONCLUSION

Like other such events, Bulgaria's E.U. accession celebrations on December 31, 2006 will be seared into institutional memory. History tends to honor both the jubilant highs and tragic lows of a nation's tempestuous life. However, the real work that follows a major cultural, political, and economic transition like Bulgaria's accession to the European Union is neither glamorous nor exciting, but rather slow and tedious. This Note does not aim to denigrate the benefits of foreign investment or industrialization, nor does it advocate for protectionist economic policies. It instead proposes that E.U. candidate countries be allowed to join the Union on more equitable terms—ones that ensure reasonable distribution of real estate rights.

Bulgarian nationals had high hopes that joining the European Union meant sharing in the wealth and prosperity enjoyed by other E.U. citizens. However, the unrestrained liberalization of Bulgaria's property market opened the country to exploitation by wealthier foreigners. The expiration of Bulgaria's internal regulations on real estate transactions were inadequately planned and were based on unreasonable and arbitrary timelines. To avoid such disastrous consequences in the future, the liberalization of domestic real estate markets must be considered in the context of the general E.U. economy. Improving Bulgarians' ability to purchase real estate on affordable terms could significantly raise citizens' standard of living and even help to reverse the nation's demographic decline. More affordable and accessible real estate could also allow Bulgarians to increase their commodity consumption and to more actively participate in the E.U. economy. In the long run, both nationals and foreigners alike will benefit from a stable Bulgarian property market. And ultimately, isn't that the entire purpose of a unified Europe—to secure reciprocal gains and promote mutual advancement for the prosperity of all European citizens? The implementation of the policies described in this Note could help to ensure a smoother transition to membership for current and future E.U. candidate countries.