

# The BVVG

## German AgriForest Privatisation Agency

### Land Tenure – to grow agriculture

### The East-German example



BVVG  
Bodenverwertungs- und -verwaltungs GmbH

**Hans-Egbert von Arnim**

# Historical Background

- Socialist expropriation 1945-1949
- Collectivisation (nationalisation) after 1949

After unification 1991

- Allocation of land to public institutions (formerly owned)
- Restitution to expropriated former owners

- Claims\* had to be claimed until December 31 st. 1992,

\* No time exemption, no further possibility to claim, More than 98 % of the claims are settled by restitution or by financial compensation

- Introducing full ownership rights, securing land lease, develop a land market
- Privatisation (lease and sales) 1.2 mill ha arable land, 0.7 mill ha Forest



# BVVG - The Institution

- The BVVG - a limited company owned by the German Federal Ministry of Finance responsible for the administration and lease/sales
  - transfers revenue to the state budget
  - guidelines given by MoF in accord with MoA and Federal States (Provinces)
  - headquarter, 4 Regional branches
- Since July 1992 responsible for:
  - the privatisation (lease and sales) of state owned arable land and forests,
  - the privatisation of state owned agricultural enterprises and buildings,
  - the conversion of arable land and forests into development land

This part of state land administration shall be finished by 2030

= 40 years of land administration and lease and sales

# Conclusion

Proven approach



**First stabilisation, then privatisation!**

# Do we need a land market (lease and sales?)

- No land market causes:
  - no real and reliable lease and/or sales contracts
  - no (transparent/open) possibility to acquire land
  - No collaterals, especially for farmers without own land
    - No open value, no possibility to value land for collaterals
  - No investment – no growth!
- YES – we do need a land market
  - own property (partly) or at least reliable lease contracts are the base for:
  - Collaterals for investment on the farm and e.g. expanding
  - Increasing economic activity
  - Competition for the land
    - thrives innovation, enhances competitive position on (international) markets
    - thrives to maintain the land in good shape (sustainable)
      - because farmers want to renew the lease contracts



# Introduction of good land governance

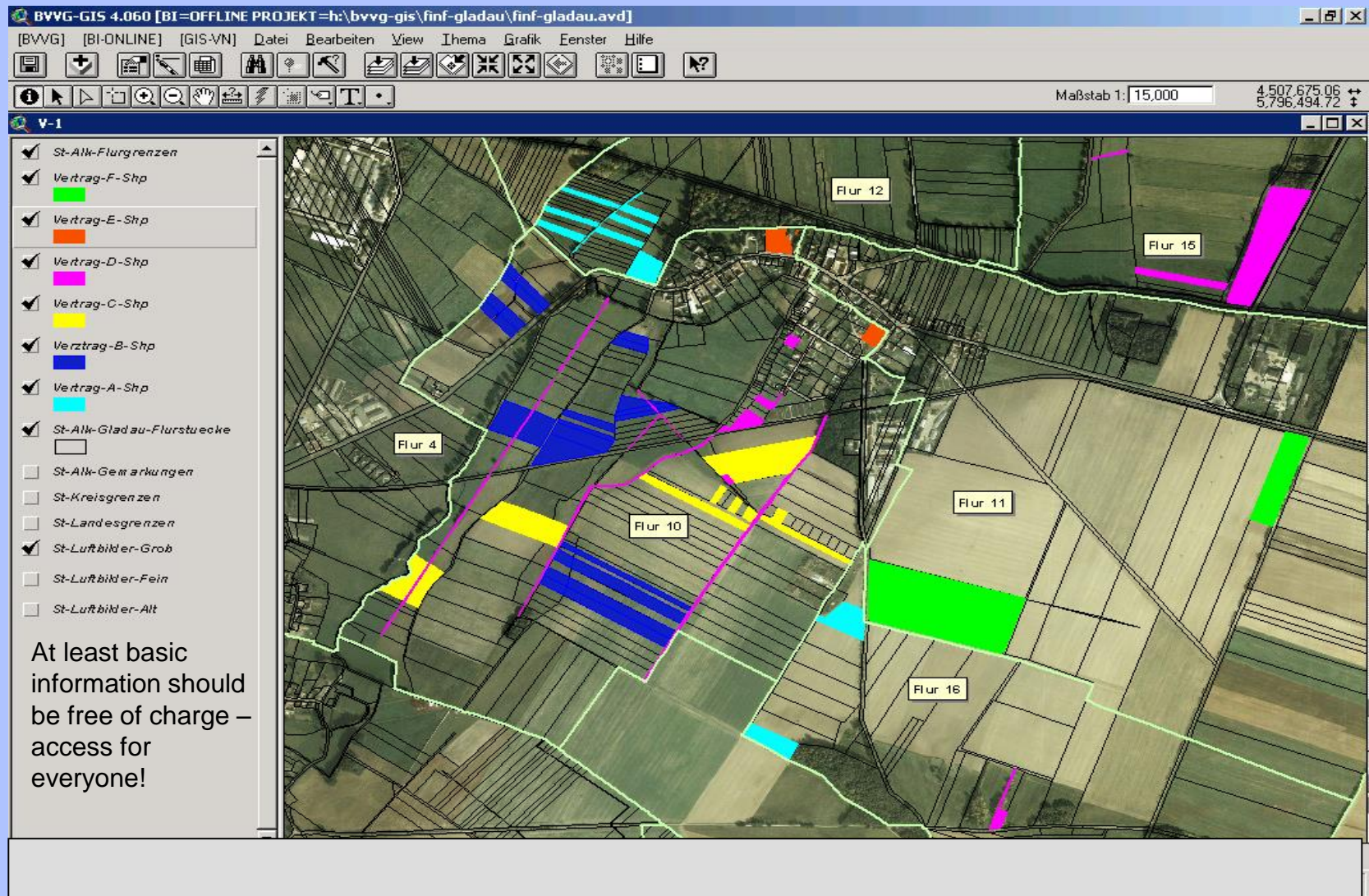
- strengthen legal framework regarding land use
- territorial planning to define the future development
- strengthen state/regional/municipal institutions
  - to secure land rights
  - to develop land use plans
  - to collect and publish data about land market (basics free of charge)
  - to inform the clients (owners/ investors) about procedures

Do not do everything at once and do not expect to have all in place before to start leasing out, but try to introduce such measures as soon as possible. See the example of Eastern-Germany and Eastern-Europe

- strengthen (state) institution/ agency which is responsible for management and privatisation (lease and/or sales)
  - to assess all managed land with all necessary data
  - to develop and adopt reasonable lease (and sales) prices
  - to organise the internal work processes transparent and comprehensible
  - Publish all relevant data and procedures

# Clear cadastre data – needed as well as title book (land register) records

Who has what rights on which land, where are the boundaries of the plot etc.



The screenshot shows a GIS application window titled "BVVG-GIS 4.060 [BI=OFFLINE PROJEKT=h:\bvvg-gis\finf-gladau\finf-gladau.avd]". The window includes a menu bar with options like "Datei", "Bearbeiten", "View", "Thema", "Grafik", "Fenster", and "Hilfe". Below the menu is a toolbar with various icons for navigation and editing. The main display area shows a map of a rural area with several plots labeled "Flur 4", "Flur 10", "Flur 11", "Flur 12", and "Flur 16". The map is overlaid with various colored polygons and lines representing cadastral data. A legend on the left side of the window lists the following layers:

- St-Alt-Flurgrenzen
- Vertrag-F-Shp
- Vertrag-E-Shp
- Vertrag-D-Shp
- Vertrag-C-Shp
- Vertrag-B-Shp
- Vertrag-A-Shp
- St-Alt-Gladau-Flurstuecke
- St-Alt-Gemarkungen
- St-Kreisgrenzen
- St-Landesgrenzen
- St-Luftbilder-Grob
- St-Luftbilder-Fein
- St-Luftbilder-Alt

At least basic information should be free of charge – access for everyone!

# Basic goals (strategic aims) for State Land Lease and Sales and Rural Development – example Germany

- Increasing/spreading land ownership and secure land lease contracts in favour to farmers and rural population are the base to stabilise rural areas and has an influence for a positive economic development
- Enabling emerging/expanding farmers to acquire/lease land and existing farms to secure their business
- Diversity of farm sizes and legal forms of farms
- Improvement of rural infrastructure
- Increasing economic activity in rural areas
- Improving good (same) living standards in rural areas compared to areas with high economic activity and population density

(by definition approx. 60% of German inhabitants are living in rural areas, towns below 50000 inhabitants are defined as rural towns) In other regions of the world other definitions



# Legal Framework of the German Land Market

## - Double Role of the State:

- Market participant/land owner like everyone – no distinction between state or privately owned land
- providing legal framework for the Real Property Market

## - Legal Basis:

- Participants act on the grounds of constitutional rights: Art. 1 freedom of contract (transactions between market participants),
- Art. 14 guarantee of private property: no expropriation without compensation,
- Art. 19 laws may not unduly interfere with the substantial contents of constitutional rights, principle of proportionality
- Civil Code: Secure written lease contracts – termination only if:
  - E.g. non-payment, not maintaining the sustainable and good agricultural praxis

**→ State has basically the same rights/duties than any private owner!**

# Lease Basics

- Written contract with all obligations and rights, presented to agricultural office
- Duration: 12 years (9-18 ) in Central Europe for normal agricultural use
  - Balance between interests of property owner (also the state) and lessee
  - Extended duration is possible up to 25 years for e.g. Orchards, Wine, also for e.g. degraded soil or abandoned agricultural land (can also be regulated in reduced lease prices for a defined period of time)
  - Thrives the farmer to maintain the soil fertility and quality of land and to be innovative - his aim is to get a renewed (prolongation) contract

The result is a highly innovative and competitive agricultural sector (see East-Germany/Eastern-Europe)

- The state has to secure lease/sales contract sizes (objects) which enables all market participants\* to acquire land

\*incl. young farmers and women, training and the will to farm actively a crucial base!

- variation of size and lease period duration
- Integration of all state land – no rosin picking
- depending on the regional agricultural structure and strategic aims

# Example for variation of size and duration

has always to be adapted into the regional environment structure and quality of soil (example from a state of the of the former Soviet Union)

Current praxis:

50,000 ha for 49 years

2 x 25,000 ha for 30 years

- Few bidders – no real competition
- Long (too?) period of contract, no chance to react on changing economical and social environment
- No possibilities for small and medium size farmers as well for peasant farmers to acquire land to expand their business
- Less economic activity in that region
- Workers instead of active farmers
- Less revenue for the state as owner

Suggestion:

20,000 ha for 30 years

3 x 10,000 ha for 25 years

6 x 5,000 ha for 12 years

5 x 2,000 ha for 12 years

8 x 1,000 ha for 18 years

8 x 200 ha for 12 years

400 ha for peasant farmers

- More potential bidders – more competition
- Also chances for others than oligarchs or foreign investors
- Reserve land for peasant farmers
- Potentially higher economic activity in the region due to more active farmers and peasants who have the possibility to expand as well
- Higher revenue for the state as owner

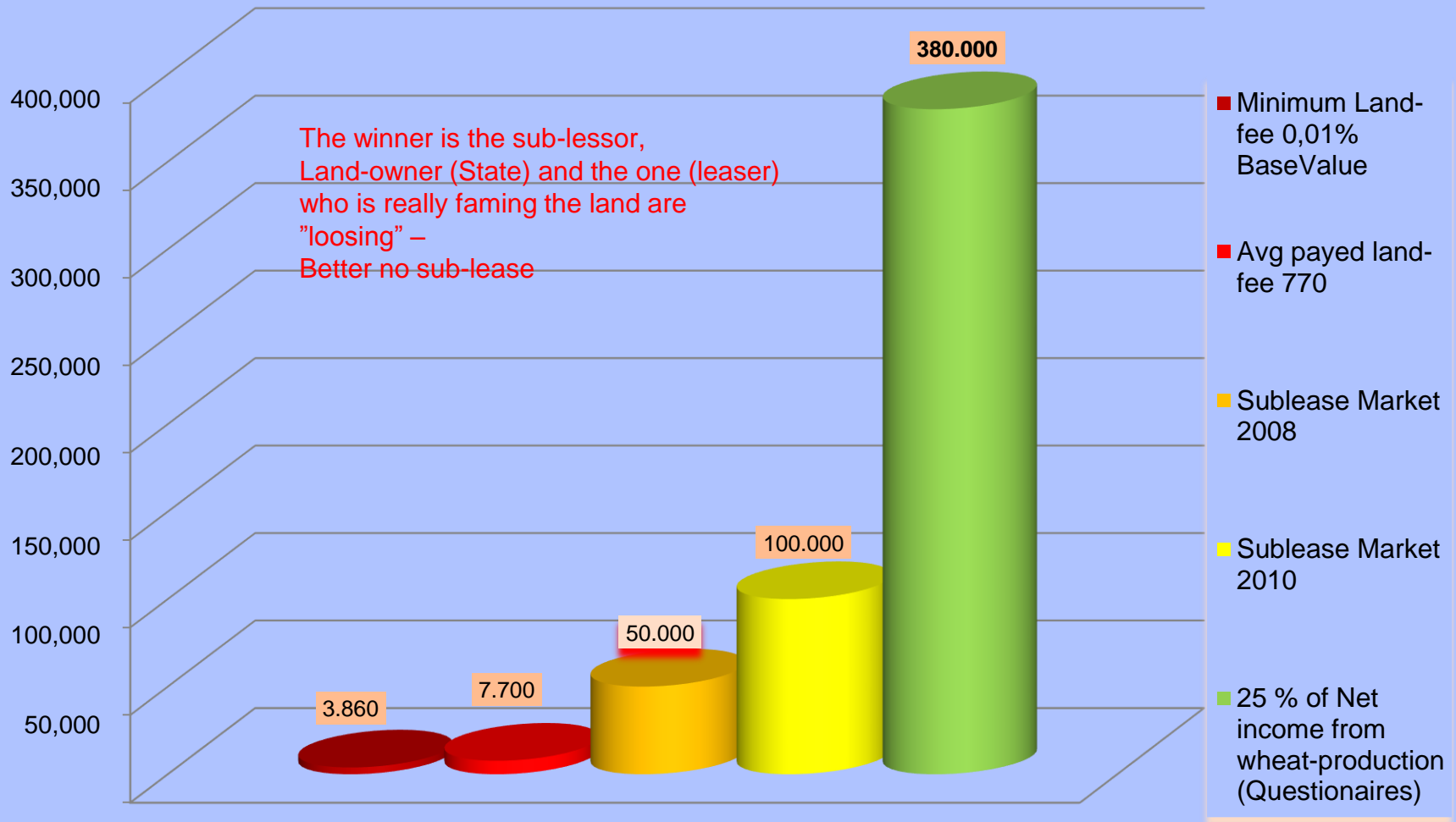
# Determination of a lease price

- Theory:
  - the net-revenue of the farming activity splits by half (50 %) to
    - the farmer
    - the land owner
- In reality:
  - Differs very much on the regional land lease markets
    - Demand/offer of land
    - Transparency of the market and/or market information (obligation for the state)
    - Very important: how is the state acting on the market – should not interfere in the market
- How to start?
  - Calculating the yield of the average crop and input costs in a region to determine the net-revenue – half of that revenue is a possible start lease price
    - Possibly deducted in order to get farmers started (hidden subsidy?)
    - adopt market prices from other regions, tender some land and check the bids (most transparent)
    - add into the lease contract to readjust the lease price after e.g. 3, 5, 10 years
- **Transparency is maintained only by tender procedure and published bids**



# Problem of state fixed lease prices versus Net-Income and sub-lease market – a loss for the state/tax-payer

Example somewhere between Europe and East-Asia



# Collaterals for land lease

- Lessee is not owner
  - No financial security on the leased land because owner, also the state can not be hold responsible for the financial activities of the lessee.
    - Idea of securing loans on leased land are widespread, but not working
- Collaterals can be:
  - Own means of the lessee (e.g. animals, machinery, buildings, financial means)
  - Grants of the state (based on a business concept, happened in Eastern Germany between 1990 and 1996 to support start-up farmers, max. 25,000 €)
  - **Secure and reliable lease contracts for 12 years!!! (or longer)** (this was the base for state subsidy and bank loans after presenting a solid business plan)
- Special Bank (Landwirtschaftliche Rentenbank)
  - Granting subsidised long term loans (10-20 years) via commercial banks
    - Interest rate reduction by 4-6 % of the market interest rate (fixed interest rate)

# Collaterals for land lease

## Possible solution:

- Lease contracts for e.g. 12 (18) years or longer
  - Servitude (contract rights) into the title book for the duration of the lease contract
  - Creditors have the right to realise the benefits of the lease contract or pass the contract on to a different farmer in case of insolvency (only within the duration of the original lease contract)
- **But: No rights to reduce the full ownership rights of the land owner**
  - No “cheap” land acquiring, no over secured credits

# Secure Land Tenure is needed to address/cope:

## - Agri-environment is changing rapidly

- Climate change
- Competition on the local AND on the international market

## – Digital technology is an asset

- Transformation from precision farming to digital farming at present
- Mobile information is available now
  - Basic data (cadastre) must be open and free of charge (at least basics) – task of the state

Massive investment needed – challenge for farmers of all sizes and legal forms !

- Therefore owned and/or leased property has to be secure
- Base for loans and collaterals

Secure land tenure is the base for the successful development



## Exchange of experience .....

### - **We could collaborate in the fields of e.g.:**

- define a state land strategy
- develop and formulate laws and regulations
- establish or reorganise institutions for the management of state owned land
- organise land lease and/or sales
- elaborate lease/sales contracts

### - **Actual Projects**

- Ukraine, Croatia, Ethiopia, Belarus, in preparation Brazil
- legal frame work, institution building, Land Bank/Funds

### - **Co-operation/feasibility studies/Workshops**

- e.g. Macedonia, Romania, Russia, Ukraine, Kazakhstan, Hungary, Slovakia, Estonia, Georgia, Mongolia, Laos, Egypt, Ethiopia, Serbia, Lithuania, South Africa, Bulgaria, Armenia, Bosnia-Herzegowina.

# Contact

## BVVG: International Consulting Department

### Hans-Egbert von Arnim

BVVG Branch  
Saxony-Anhalt  
Head of Branch  
Universitätsplatz 12  
D-39104 Magdeburg

fon: +49-(0)391-5373600

fax: +49-(0)391-5373901

mail: [arnim.hans-egbert@bvvg.de](mailto:arnim.hans-egbert@bvvg.de)



### Katja Dells

BVVG  
Head of the International Consulting  
Department  
Schönhauser Allee 120  
D - 10437 Berlin

fon: + 49 -(0)30 - 4432 1033

fax: + 49 -(0)30 - 4432 2229

mail: [dells.katja@bvvg.de](mailto:dells.katja@bvvg.de)

Homepage of BVVG: [http:// www.bvvg.de](http://www.bvvg.de)