



Agriculture and Foodsecurity Network: "Inclusive Land Governance – Road to Better Life"

**Field Days September 7, 2016:
Land Governance in Switzerland**

Visit 5: Farmland market and voluntary prop- erty consolidation

compiled by **AGRIDEA**

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ENTWICKLUNG DER LANDWIRTSCHAFT UND DES LÄNDLICHEN RAUMS
DÉVELOPPEMENT DE L'AGRICULTURE ET DE L'ESPACE RURAL
SVILUPPO DELL'AGRICOLTURA E DELLE AREE RURALI
DEVELOPING AGRICULTURE AND RURAL AREAS

5 Farmland market – “tight rules for a small offer”

Field day example: Agricultural land market and voluntary property consolidation in Reiden

In principle, the Swiss legislation protects the claims of owners/users of the resource soil with the property right. The fundamental right of property is guaranteed by the Swiss constitution (art. 26) and sets one of the cornerstones of the liberal social order in Switzerland. This guarantee is very strong in fact, giving landowners a strong position in political negotiation processes to enforce their user's interests. Thus the proprietor can – within the limits of the remaining legal system – freely dispose of the object he owns, and the land market is basically free.

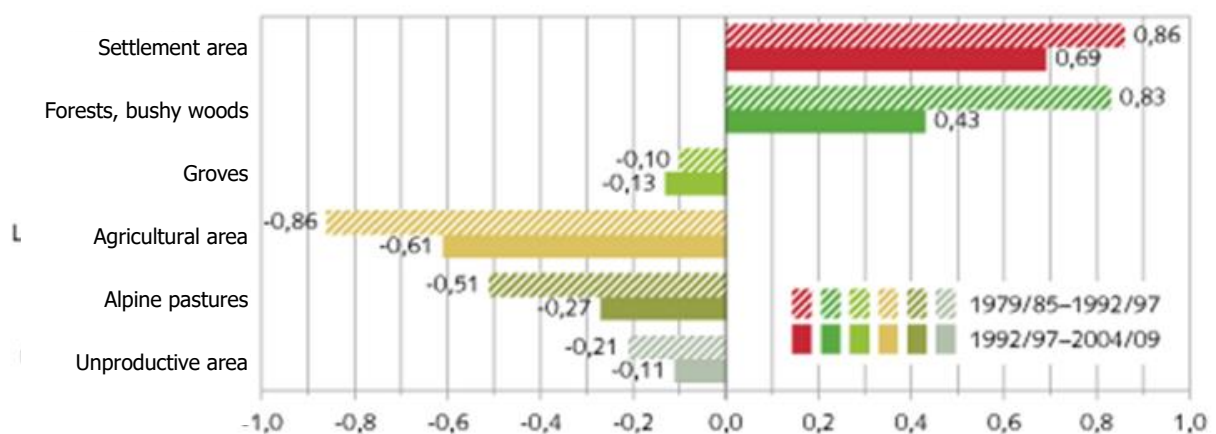
The general details around property and ownership are regulated in the civil code. Landed property comprises parcels of land, including estates and permanent and independent rights and obligations (e.g. building leases, easements, mortgages, rights of way etc.). Property rights as well as easements are entered in the land register, and sales contracts concerning parcels of land have to be drawn up and certified in due legal form.

The basic data of the land register are publicly accessible (see also chapter 3.1). Thus it is relatively easy to get an official and reliable record on ownership, size and rights or obligations for a specific parcel.

5.1 Restrictions of the free market for agricultural land

But there are essential limitations to property rights concerning the market with agricultural land as well. The law

Change of land use in Switzerland, in m² per second



Quelle: BFS – Arealstatistik

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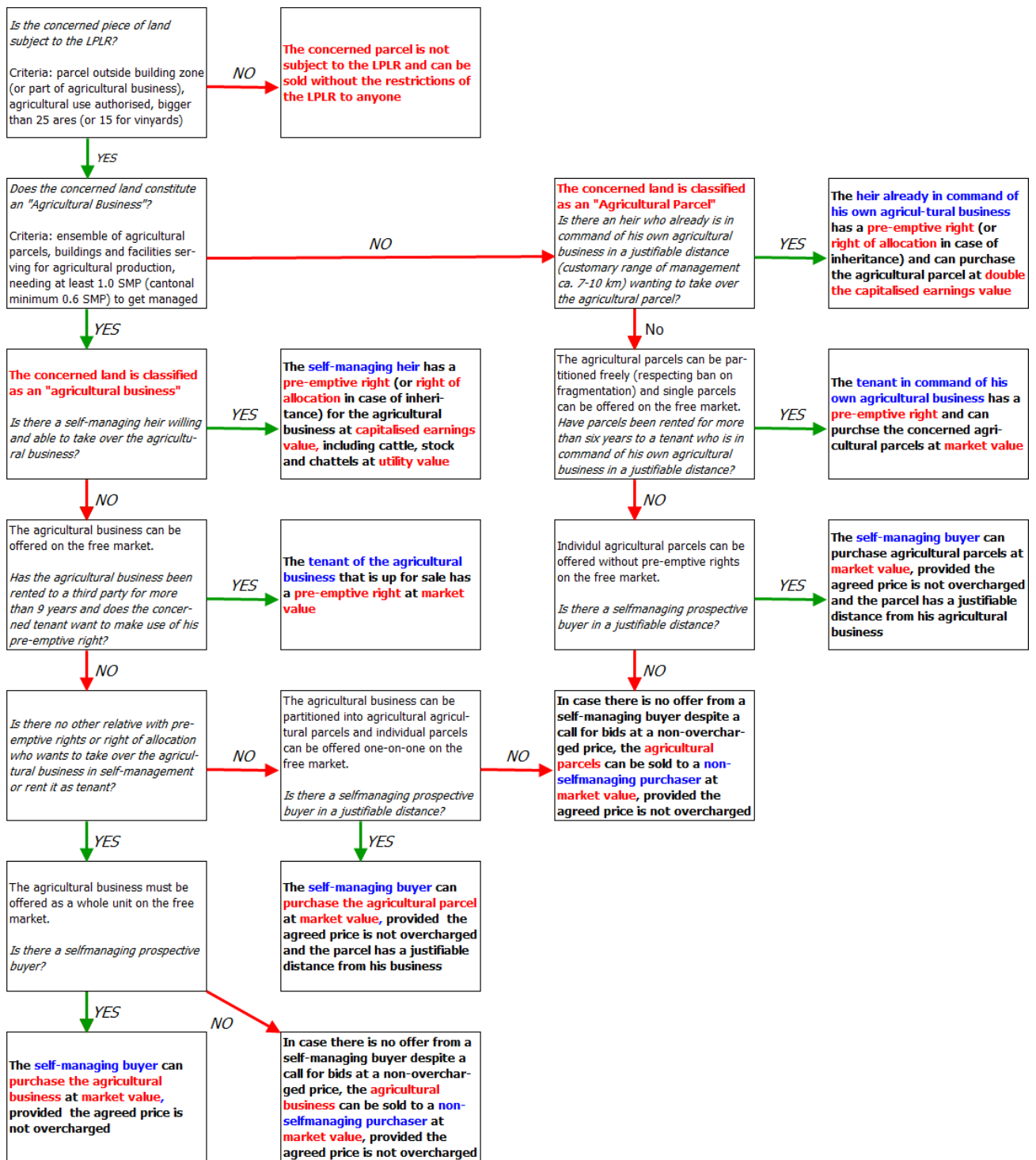
on spatial planning (dating from 1979 only) in particular has separated agricultural land from building areas and clearly divided the land market (see also chapter 2.5). Still, the settlement area is constantly increasing at the expense of agricultural land. On the other hand, the strict protection of the forests, which has been in force since 1902 (in the mountain zones already since 1874), sets the line for farm land against the “wild”: Since the clearing of forests is prohibited, but not their growth in surface, the forested area in the mountain zones has increased at the expense of the agricultural land as well. So the agricultural land market faces an ever dwindling offer.

5.2 The law on peasants’ land rights (LPLR)

On private-law level, the market for agricultural land is further restricted by the law on peasants’ land rights LPLR (“Bundesgesetz über das Bäuerliche Bodenrecht”), which came into force in 1994 and confines property rights as well as selling and purchasing possibilities for agricultural land. It was passed with the general aim to forward the land ownership of competitive family farms, to strengthen the position of the self-managing user or tenant in the acquisition of agricultural land as well as to fight overcharged prices.

Important details of the LPLR have already been explained in chapter 3.4, and the decision making for a family wanting to sell agricultural property is best explained again with the following diagram:

Decision path for an owner wanting to sell land outside the settlement zone (Law on Peasant's Land Rights LPLR)



The diagram shows clearly that not much agricultural land should reach the free farmland market, considering that the established farmer families profit from pre-emptive rights and price privileges. In fact it is almost impossible for an outsider to purchase farmland, and if an opportunity arises, the price is often prohibitive (despite the price limit).

5.3 Importance of the agricultural land market

In Switzerland, according to the newest available statistics (2000) in a study published in 2002¹, around 44% of the utilised agricultural surface are owned by non-farmers – by private individual landowners, but for the most part by collective bodies (corporations etc., see chapter 3.6) and public authorities (communes, cantons, federal government). On an average, farmers have taken over 55% of their actual operating area from their parents and are leasing 40% of their land from third parties, whereas only 5% has been purchased on the free land market. The author of the study referred to above estimates that per year, only about 0.2% of the whole agricultural area actually reaches the free market.

These general observations suggest that the agricultural land market in Switzerland is a seller's market where the vendor decides in most cases whether a deal is closed and for what price – although the LPLR's concept of the overcharged price sets a limit to farmland price development.

In fact the agricultural office of the canton of Zurich observed that prices for arable land – which before the implementation of the LPLR had reached 20.00 CHF/m² in 1990 – had sunk from an average of 10.00 CHF/m² in 1999 to only 7.90 CHF/m² in 2007 (grassland sold at around 2.00 CHF less per m²).

So apparently the measures taken to control the rise of land prices (LPLR's ban on overcharged prices, see chapter 3.4.6) had had an effect. But critics claimed that deep prices prevented some owners to put their land on the market, even though they would in principle be willing to sell, thus unnecessarily delaying the process of structural change in agriculture. What's more, prices for good arable land in the neighbouring cantons of Thurgau and Lucerne were around 20% higher than in Zurich. That's why the authorities of the canton of Zurich lifted the increase factor of the "overcharged price" mechanism from 5% to 15%, hoping to promote the mobility of agricultural land.

Up to now this policy change has shown little effect on the land market of the canton of Zurich. Apparently it is still the emotional bonds that make families hold on to the inherited land, even though they're not farming any more.

5.4 Voluntary property consolidation

The voluntary property consolidation is one of several possibilities to improve the parcelling of agricultural land. It comprises a consolidation and reallocation of the parcels of farm units in a defined perimeter and of the related servitudes, but usually doesn't include the improvement of access roads and other land infrastructure. In contrast to overall land improvements ("Gesamtmeliorationen"), soil evaluations ("Bodenbonitierungen") are not mandatory for voluntary property consolidations. A mere coextensive trade-off is possible – which simplifies matters considerably and lowers costs too.

The difficulty of the procedure however is to get the necessary consent of all concerned land owners to the compiled draft of reallocation. Therefore, intensive negotiations and hearings are compulsory for a successful property consolidation.

Procedure:

The first impulse for a voluntary property consolidation often comes from land owners themselves. But the official procedure will be started by either the municipal council or the responsible municipal department (of building, transport, environment etc.), who have to define the perimeter and to provide a report that describes the planned property consolidations and its aims as well as relations to the subordinate land use plan. A public presentation of all preparatory documents will be organised and the concerned property owners can decide whether the consolidation shall be initialized or not.

If the result of this initial decision is positive and all land owners have signed the property consolidation principles, an execution committee will be installed or else the municipal council provides the execution of the consolidation.

Based on the existing plan combined with lists of owners, notifications, servitudes, mortgages etc.; and according to the approved principles of distribution as well as the valuation of the former property rights, the executing body will propose a reallocation plan ("Umlegungsplan") which includes a reallocation inventory and statements concerning monetary settlements and reimbursements that compensate over- or under-allotments.

It is imperative that all land owners and persons otherwise involved approve of the reallocation plan with their signatures. Thus the reallocation plan becomes legally valid, and the legal changes will be listed in the land register (by the way: voluntary property consolidations are exempt from any kind of land register fees or property transfer taxes). When all monetary compensations are settled, the voluntary property consolidation is completed.

¹ Gianluca Giuliani, "Landwirtschaftlicher Bodenmarkt und landwirtschaftliche Bodenpolitik in der Schweiz", Diss. ETH Nr. 14781, Zürich 2002