
Final Report



Twinning Light Project

Lithuania – Germany

LT 2002/000-601.06.03.05

***Institutional, organisational and legal
framework for the lease and sale of state
owned agricultural land in the Republic
of Lithuania***

November 2004

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Abbreviations

BMF	Bundesministerium der Finanzen German Ministry of Finance
BMVEL	Federal Ministry of Consumer Protection, Food and Agriculture
BVVG	Bodenverwertungs- und -verwaltungs GmbH German Agriforest Privatisation Agency
CAP	Common Agricultural Policy
CC	Candidate Country
CPMA	Central Project Management Agency
EAGGF	European Agricultural Guidance and Guarantee fund
EC	European Community
EU	European Union
GIS	Geo Information System
LIS	Land Information System
MoA	Ministry of Agriculture
MS	Member State
NLS	National Land Service under the Ministry of Agriculture, Lithuania
PL	Project leader
RDP	Rural development plan
SPD	Single programming document
STE	Short-Term Expert
ToR	Terms of Reference

1. Executive summary

1.1. General statement on the success of the project

All activities and outputs fixed in the contract documents have taken place and been delivered. All expected results have been achieved and it can be concluded, that the Lithuanian-German Twinning Light Project has been a success. This general result has also been certified by the members of the Steering Committee including representatives of the EU Representation and the CPMA during the final meeting of the Steering Committee.

1.2. Documents of authority for the project

Documents of authority for the project have been the Twinning Light Contract signed by the CPMA, the EC Delegation, the NLS and the BMF in December 2003 / January 2004 as well as the Twinning Manual.

1.3. General objective

The purpose of this project was to support the future development of the Lithuanian land market by proposing an institutional, organisational and legal framework for the handling of state owned and state managed land.

In order to establish an efficient management of state owned land as an important condition for competitive farming in Lithuania legal provisions for an adequate institutional framework should be installed in the near future.

As a medium-term priority for land market development Lithuania should complete its registration and titling procedures.

While the scope of the project encompasses a review of the existing legal and institutional framework intended to support the land market, the project aims at improving management of state owned land by giving recommendations for further development of the land market including necessary changes of the above mentioned framework.

1.4. Specific objectives

Therefore, it was agreed to assist the Ministry of Agriculture of the Republic of Lithuania and the National Land Service under the Ministry of Agriculture in the development of the Lithuanian land market by:

- reviewing the current Lithuanian legislation concerning the market for agricultural and forestry land and put it into an EU perspective;
- analysing the strengths and weaknesses in the current handling of the sale and lease of state owned agricultural and forestry land by the National Land Service and the local authorities in regard to legal, organisational and technological matters;

- introducing European know-how and expertise in the area of land market development, specifically the large-scale lease of state owned agricultural and forestry land;
- giving recommendations on a coherent institutional, organisational and legal framework for the privatisation (lease and sale) of state owned agricultural and forestry land;
- proposing follow-up activities.

1.5. Project period

The project contract was signed on January 27th, 2004. Following the Twinning rules, the project started with the Kick-off Meeting on February 5th and had a duration – after prolongation for 1 month – of 8 months running till September 27th, 2004 (see Side Letter 1).

1.6 Project team / working group

The Project Leader on the Lithuanian side was Ms Vilma Daugalienė, Head of Land Management Division of the National Land Service (NLS). Project Leader on the German side was Dr. Brigitta Kauers, expert of the Unit for Contractual Issues, Advise on Privatisation in Eastern Europe and EU Affairs at Federal Ministry of Finance (BMF).

The team of Short-Term Experts (STEs) consisted of Dr. Wilhelm Müller, Mr Wolf-Gerrit Vollert, Ms Gunda Schumann, Mr Stefan Kresse, Mr Hans-Egbert von Arnim, Mr Morten Hartvigsen, Mr Peter Peters, Dr. Willy-Albert Boss, Mr Werner Schick.

According to the contract a working group of Lithuanian and German experts was established and worked during the entire project period. The working group prepared the discussion tables beforehand and conducted a comprehensive evaluation afterwards. Concluding remarks to every discussion table were worked out by the working group.

Members of this working group were:

Mr Silvestras Staliūnas, Director of Land Management Department, NLS; Mr Algis Bagdonas, Head of Land Reform Division, NLS; Ms Vilma Daugalienė, Head of Land Management Division, NLS; Ms Jelena Liaskovskaja, Deputy Head of Law Division, NLS; Mr Zinkevičius, Director of Land Management Department of Vilnius County Governor's Administration,

Mr Wolf-Gerrit Vollert, Head of the experts for sale and lease of agricultural land, BVVG; Mr Hans-Egbert von Arnim, Head of the Magdeburg Branch, BVVG; Ms. Gunda Schumann, legal adviser, lawyer in the Sales and Leasing Section, BVVG; Mr Stefan Kresse, project manager at international BVVG projects; Mr Morten Hartvigsen, expert of land consolidation, Ministry of Food, Agriculture and Fisheries, Denmark.

In general it has not been difficult to attract experts to work with the Twinning Project. Some of them were already identified in the Twinning Light Contract. The other STEs were notified in the Side Letter 1. However, it was difficult to ensure a longer

dedication by some STEs, because of their main business at home. Therefore, these experts did not fulfil the man-days as scheduled. For the achievement of the expected results of the project this was not of any importance, though.

GTZ Twinning Office in Berlin provided general assistance throughout the project being responsible for the project management (Mr Bernd Schumacher) and financial reporting (Ms Mona Struck). Auditing was performed by Ms Claudia Kracker of PWC Deutsche Revision.

2. Background

2.1. Political background

The legislative background and the current situation in relation to the German-Lithuanian Twinning Project are:

On March 11th, 1990, the Supreme Council of the Republic of Lithuania on the behalf of the will of the nation announced the independence of the Republic of Lithuania. After restoring the Lithuanian independence the Basic Provisional Law was adopted, which specified that the economic system of the country is based on the private ownership.

The essential reorganization of the land management system started with the adoption of the Law on Land Reform of July 25th, 1991, and the Law on the Restoration of the Ownership Rights of Citizens to the Existing Real Property of August 18th, 1991. This was the beginning of liquidation and reorganization of agricultural enterprises and establishing agricultural structures based on family farms. According to the existing national legislation ownership rights can be restored in three ways: land recovering in kind, land, which can be recovered in the equivalent in kind, other alternative ways of compensation (money, securities).

Up to the 1st January 2004, the total number of applications submitted for restitution of land ownership rights was about 741 thousand the total area of land amounting to 4.2 million hectares. Land ownership rights (as regards both land recovered in kind and compensations) have been restored to 87.5 per cent of land (3.6 million hectares). Thus 643.7 thousand claims out of the total submitted have been settled. A big part of the remaining 12.5 per cent of land where the ownership rights haven't been restored yet is related to the applications not supported with the necessary documentation proving rights to the land ownership and kinship.

More than 3.2 million hectares of land was legally registered, where land used for agricultural activities makes up to 2.57 million hectares. In 2003 land used for agricultural activities comprised 3.96 million ha (60.6 percent of the total area of Lithuania).

Although restitution of land ownership is not completed, yet, land market is already functioning. Average number of private and state owned land transactions (purchase-sales and lease) makes 2600 and 0.3 - 0.4 per cent of private land is transferred per month.

According to preliminary data after completion of the restitution of land ownership rights, there will be around 0.5 million hectares of free state owned land that will be used for the improvement of agricultural structures, for the development of

infrastructure, for implementation of environmental requirements and for the market sale.

The 2001 Accession Partnership stated: Complete the remaining part of land titling and registration and further support land market development. This Twinning Light Project serves the attainment of this aim. It contributes to the enhancement of the administrative structures of handling state owned and state managed land by reviewing the existing Lithuanian legislation as well as procedures from the perspective of the EU rules. The beneficiary of the project is the National Land Service under the Ministry of Agriculture of the Republic of Lithuania (see ToR, Art. 2). So the project helps to carry out the reforms and reorganisation needed to adapt the legislation and procedures to the Acquis Communautaire with the priorities set in the Accession Partnership.

2.2. Background of the project

With this project the BMF was able to satisfy the request made by Minister of Agriculture of the Republic of Lithuania, Mr Jerominas Kraujelis. He asked for support by having BVVG experts in Lithuania for consultations and workshops and thereby assisting Lithuania in development of regulations in the field of handling state owned and state managed land. BMF replied that Germany would continue doing everything possible to support Lithuania on its way to the EU.

The Terms of Reference (ToR) were circulated in the 2nd quarter of 2003. Based on them Germany submitted a proposal in July 2003. In September 2003 the NLS selected BMF and the BVVG as the Member State partner for the implementation of the project. Working out the contractual documents took some time so that the project could start only in February 2004.

In general the prevailing environment during the implementation of the Twinning operation was favourable. The Ministry of Agriculture and the NLS took great interest in the work of the project and its results. Since the working group was supported in many ways it was able to work in a good atmosphere.

There was a special situation for the project implementation: a few months before the elections to the Lithuanian Parliament it was difficult to involve the Members of Parliament who would have liked or could have taken part in the discussions. Even in the discussions on the legislation from the point of view of the EU Laws and rules it would have been interesting and useful to hear their ideas and to discuss with them the conclusions and recommendations of the working group.

Hopefully the conclusions and recommendations of this Twinning Light Project are "just in time" and will serve the Members of Parliament in their decisions.

3. Summary of the Twinning Light activities during the reported period

3.1. Kick-off Meeting

In order to properly start the project, a Kick-off Meeting was held in Vilnius, on February 5th, 2004. This meeting was intended to establish personal contacts among the project partners, to agree a detailed timeframe and work-schedule defining the

details of the main phases of the project. Both project partners made presentations about their contributions and expectations in relation to the project.

A Steering Committee was founded (see 3.4.).

A working group was established (see 1.6.)

Guests of the meeting were the Minister of Agriculture of the Republic of Lithuania, Mr Jerominas Kraujelis, the Head of the Rural Affairs Committee of the Parliament, Mr G. Kniukšta, Dr. Alexander Heinz Henning von Rom, Ambassador of the Federal Republic of Germany to Lithuania, Mr. Dr. Gerhard Thalheim, Parliamentarian State Secretary at the Federal Ministry of Consumer Protection, Food and Agriculture, Mr Fernando Garces de los Fayos, Head of Phare / ISPA section of EC Delegation to Lithuania.

The Kick-off Meeting was very successful. Both partners of the project were excellently prepared. The participation of the guests was a sign of the high interest in the project and its results (see Inception Report of March 1st, 2004).

3.2. Discussion tables I to VI

During the reported period 6 discussion tables with about 300 participants were organised.

The discussion tables were addressed to the NLS on the one hand and to the County Administrations on the other hand.

The discussion tables addressed to the NLS were held in Vilnius and were concentrated on the management of state owned land and the necessary monitoring tasks. The issues of these discussion tables were:

- Objectives and desired results of the laws pertaining the similarities and differences to the German model (Discussion Table I, April 6th and 7th, 2004);
- The system of land consolidation as part of the privatisation (Discussion Table V, June 29th);
- Prospective role of the NLS – advantages and shortcomings of a centralised / decentralised organisational model (Discussion Table VI, July 20th, 2004).

The discussion tables addressed to the County Administrations were held in Telšiai and Palanga and were concentrated on institutional and practical aspects of the day-to-day handling of state owned land. The issues of these discussion tables were:

- Management, lease and sale of agricultural land – an important task of the County Administrations (Discussion Table II, Telšiai, May 5th, 2004);
- Business plans – a basis for the decision – making process for governmental measures to improve the agricultural structure by the lease and sale of state owned agricultural land (Discussion Table III, Palanga, June 7th, 2004);
- Governmental and EU support for the purchase of agricultural land by farmers on the basis of business plans (Discussion Table IV, Palanga, June 8th, 2004).

Departing from the Twinning Contract documents the Discussion Table VII was replaced by a study trip to Germany on technical issues (see 3.3.).

All discussion tables were very well prepared. It was very useful to invite County representatives to the discussion tables. Thereby an opportunity could be provided for more active involvement in preparing proposals for the improvement of the system in Lithuania. It was also very useful to have discussion tables outside Vilnius because

otherwise Lithuanian experts were very busy with their daily responsibilities and were very often not able to participate.

3.3. Study visit

The originally planned Discussion Table VII was replaced by a study trip to Germany. In accordance with the Project Contract the objective of this study trip was "Technical, organisational and practical aspects of the work with a number of plots of land and contracts". The 3 participants of the study trip, Ms Vilma Daugalienė (Project Leader), Ms Jelena Liaskovskaja and Ms Irena Urbšienė, had an opportunity to learn about the German experience in the fields of contract management, development of a computer aided information system, GIS mapping of plots, fields and areas with special assignments a.o.

All three participants of the study visit evaluated the visit as very helpful. Their concluding remarks and proposals are enclosed in the Final Report.

3.4. Steering Committee, its members, meetings

A Steering Committee was set up during a founding meeting on February 5th, 2004. The members were: Ms Gintare Dešukaitė, a representative of the Rural Affairs Committee of the Lithuanian Parliament, Mr Pranas Aleknavičius, adviser to the Minister of Agriculture, Mr Kazys Maksvytis, Director General of the NLS, Dr. Wilhelm Müller, Managing Director of the BVVG, Dr. Brigitta Kauers, MS Project Leader, Ms Lina Spūdytė, a representative of the EC Delegation/Representation, Mr Gintaras Makštutis, a representative of the CPMA.

Director General of the NLS was elected a Chairman of the Steering Committee.

The Steering Committee determined the necessary measures to be taken by both Twinning partners for proper implementation of the project. These measures also ensured that the project was in line with the schedule in all respects. The tasks and responsibilities of the different partners involved were clarified, the details of the working programme were discussed and determined.

The Steering Committee met on: February, 5th (founding meeting); June, 7th; July, 20th; September, 14th (final meeting).

Since the Discussion Tables 3 and 4 were postponed the 2nd meeting of the Steering Committee was also postponed. To provide the EC Representation with sound, all-round and punctual information and to clarify current questions with the Lithuanian project partner the MS Project Leader travelled to Vilnius on May 10th, 2004 (see Progress Report of April 27th, 2004). After this trip, the dates of the following discussion tables were fixed by the Steering Committee during its 2nd meeting on June 7th, 2004.

The following Steering Committee meetings were held in compliance with the Contract every two months.

3.5. Joint Seminar

The Joint Seminar was held on September 14th, 2004. The aim of this seminar was to present the ideas and findings of the expert discussion tables to a wider audience thereby ensuring the due information of all governmental bodies involved.

Guests of the Joint Seminar were: Mr Vytautas Grušauskas, Secretary to the Ministry of Agriculture, Mr Basiulis at the Bureau of the Prime Minister, Members of the Parliament Mr Zenonas Mačernius and Viktoras Rinkevičius, Ms Gintare Dešukaitė, Representative of the Rural Affairs Committee of the Lithuanian Parliament, Mr Laimonas Čiakas, Director of EU Affairs and International Relations Department of the Ministry of Agriculture, Mr Pranas Aleknavičius, Adviser to the Minister of Agriculture, the German Ambassador, Mr von Rom, Dr. Neubauer, Representative of the Federal Ministry of Consumer Protection, Food and Agriculture and other distinguished persons.

About 40 participants, among them representatives from the County Administrations, took part at the Joint Seminar. All governmental bodies involved in the project were represented at the seminar and an active discussion on the main objectives and conclusions of the project was held.

3.6. Press conference

After the Joint Seminar journalists were invited to a Press Conference.

3.7. Publishing a brochure on the project

The Final Report will be published in a brochure and distributed to the Members of Parliament.

4. Evaluation of the Twinning Light Project

The evaluation of the Twinning Light Project was made during the Joint Seminar and the final meeting.

The preparation of the Project Contract was very complex and took more time than the duration of the project itself. However, the implementation was very fast and smooth. In the opinion of Ms Lina Spūdytė, a representative of the EC Representation, the counterparts were chosen very successfully. All members of the Steering Committee agreed to her that the project was successful and that the long preparation served as a good basis for the smooth implementation. Ms Kuklierienė, the co-ordinator of the agricultural sector in CPMA, expressed her satisfaction about the project. The co-operation within the project was very efficient and the results achieved were good.

In the opinion of Mr Grušauskas, Secretary to MoA the Twinning Light Project was very relevant to Lithuania. He expected that it would help NLS to review the current legal and institutional framework and provide recommendations how to improve them.

The Director General of the NLS and the Managing Director of the BVVG noted that it was a pleasure to work together. The requirements for the German side were very high but all tasks were fulfilled.

After certain difficulties at the beginning of the project work (too little office space, no equipment) the STEs were provided with everything needed, therefore, after a few weeks the technical working conditions were very good. But more important than the technical conditions were the competent and open-minded Lithuanian project partners, with whom the project could be so successful.

The following lessons were learned during the project implementation:

1. It is acceptable when the experts at the seminars and discussions speak in their native language. So they can express their knowledge in all nuances and facets. However, the presentation slides should be prepared in English. Only in that way the presentation slides can be also used later on.
2. Time planning of the project should be very precise and strict and everyone should plan one's private time accordingly.
3. Steering Committee should comprise relevant people only who could realistically take part in meetings and contribute to the project.
4. The organisation of project work and distribution of the workload should be improved.

The budget was not absorbed by 100 per cent, however, the rational use of the budget was more important than the spending itself.

A critical comment to the EU –Twinning –rules could be provided: at the end of the Twinning Light Project there is not enough time for all financial transactions.

For example, the Final Report has to be translated into the Lithuanian language. It can be translated only after finishing the English version. But the Final Report can be finished only after the final meeting. It was not possible to write the Final Report in parallel with the discussion tables because the recommendations of this project are the result of all the discussions and could be finally worked out only at the end of the project.

5. Conclusions and Recommendations

The expected results were achieved.

The project took place in a very important historical period during which Lithuania acceded EU and had to take very important decisions. Therefore, the Twinning Light Project provided a very good opportunity to use EU support in that important period.

BVVG communicated to Lithuanian counterparts their experience gained in the process of the land reform in Germany. The Lithuanian partners benefited from the project in accordance with the Contract. The BVVG experts gained new and very useful experience. Decisions, which were made in Germany, could not be transferred directly to Lithuania. However, German recommendations will lead to joint findings and help the Lithuanian counterparts take relevant decisions.

It was a great pleasure for BMF and BVVG, Germany to have an opportunity to cooperate with NLS.

The recommendations for the future are the following:

I. Objectives and desired results in the process of agricultural structural policy

1. Current situation - background

After the reestablishment of Independence in the year 1990, the Republic of Lithuania introduced its National Programme of Land Reform. Based on the provisional basic law full ownership rights were guaranteed to Lithuanian citizens. The land reform started by introducing the Law on Land Reform as well as the Law on Restoration of Ownership Rights in July and August 1991.

Based on the idea of private property ownership the main aims of both laws are:

- restoration of ownership rights by means of restitution or compensation;
- distribution of land without payment to Lithuanian citizens as laid down in the Law on Land Reform;
- re-allocation of state owned land to public institutions;
- privatisation of free state owned land;
- establishing regulations for the Land Market.

The process of the Agricultural Reform is divided in 3 major steps:

a) until 1996

- Reorganisation of the farming activity;
- Reorganisation and/or liquidation of the socialist style agricultural co-operatives and state owned farms
- Introducing agricultural structures of small family farms (based on the historical sizes of Lithuanian farms before collectivisation)

b) 1996 – 2003

- Main focus was on adapting the Lithuanian legal framework to the EU – legislation;
- Development and improvement of the food processing industry.

c) Since 2003

- Development of rural areas;
- Strengthening the agricultural sector;
- Increasing the size of farms;
- Tackling the land fragmentation.

The goals of the Agricultural Policy before the EU accession were:

- Land reform (restitution);
- Privatisation of state assets;
- Transposition of EU *Acquis*;
- Institutional development and strengthening capacity;
- Modernisation and restructuring of the agricultural and food sector to be competitive in the EU market.

Now the restitution process is in its final stage. As for 1 August 2004, land ownership rights were restored to 643.700 citizens, that make approximately 89% of all claims submitted covering an area of 3.58 million hectares. But the process of restitution is not finished, yet. (There is no indication whether the existing claims, eg. in Vilnius area with low soil quality will be shifted to areas with better farming conditions because it is only stated how many claims are still there). In urban areas the number of settled restitution claims is still lower.

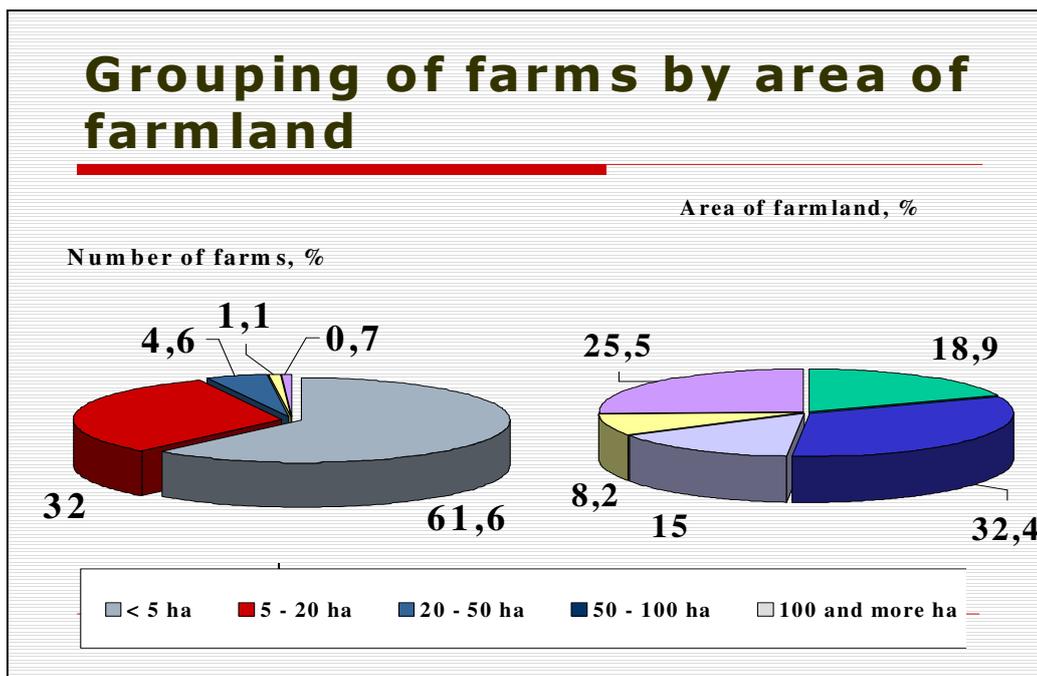
An important point in this procedure is the option for the claimant to change the place of restitution; to choose the actual land parcel that is to be restituted, i.e. the restituted land parcel is not necessarily identical with the one that has been expropriated in former times. Small farm holdings have been the predominant outcome of this land reform so far.

Land reform has created three structural problems:

- Average farms:
 - size: 9,1 ha;
 - 279 000 farms are operating;
- Small farms:
 - size farmland: 3,8 ha;
- Large area of unused land:
 - about 1 million ha of arable land is currently not used for agricultural purposes (abandoned land).

The size of average farms amounts to 9.1 ha. The average size of the smallest farms (2/3 of all farms) – household farms - is 2.2 ha. Farms (holdings) up to 9.99 ha in size make 83% (230.000) of the total number of farms. 15% (43.000) middle-size farms operate on land that comprises 10 – 50 ha (average 18.5 ha). Besides Portugal (9.3 ha), Italy (6.1 ha), and Greece (4.4 ha), Lithuania's farms are amongst those that on average have the least land size within the EU. Taking into account that in the above mentioned countries special products like vine grapes, horticulture and vegetables are grown that generate comparatively higher income per ha, farmers in Lithuania are facing an uncomfortable economic and competitive situation.

In the year 2000, new regulations on family farm registration were adopted. The officially registered farms represent only 11 per cent of all private farms. The registered farms are considered to be commercial farms. Thus, taking into consideration the data on farms and their farmland, the average size of land used by 45.000 registered farms amounts to 26,2 ha, while that of family farms equals 5,5 ha.



The total number of agricultural enterprises is up to 371. Their average size is approx. 483 ha. Currently, 130 agro-service co-operatives and 110 agriculture co-operatives are registered. However, the vast majority of them have less than 10 shareholders.

A very specific problem that Lithuania faces is the huge amount of agricultural land not being actually used for agricultural purposes. Over the last decade the area of abandoned agricultural land, which is no longer regularly cultivated, has been increasing. This development is mainly a result of the land reform process and the adaptation of the agricultural sector to the EU and the world open market. It is estimated that approx. 1 Mio ha of agricultural land is abandoned. This is 1/3 of the agricultural land of the Republic Lithuania. In many cases, cultivation of such land was stopped in the areas which are characterised by poor soils and other adverse growth conditions. The EU does not pay premiums for these land parcels (loss of income for the agricultural sector).

The main general purpose of agriculture and rural development in Lithuania is implementation of general EU agricultural policy principles and measures. In order to achieve the general long-term purpose and to solve identified problems midterm agriculture and rural development **aims and objectives in the agricultural policy** are formulated:

- Creating competitive agriculture orientated towards the EU market and food storage as well as marketing development, which allows better use of present possibilities and ensures employment in rural areas
- Possibilities to verify economic activity in rural areas, and possibilities for agricultural production producers to undertake additional economic activities, cherishing biological variety, landscape and environment.

2. Conclusions

The most important obstacle to finish the process of restitution is the option to choose the site of restitution. Until now the expiration date for claiming the desired land parcel has been prolonged for several times and no deadline has been set so far. Furthermore, there may be too many claims focusing on few sites with high economical potential. It might be difficult to put claimants on a “priority list” (first come, first serve?) and to allocate land parcels in other parts of the region or even in other regions to those claimants that did not range high on that “priority list”. To put it straight, this situation is like a “devil’s circle”, since claimants may be increasingly unsatisfied, and, therefore, due to public pressure, the expiration date will probably be prolonged again. Until this situation is not changed the restitution process for the last claims will take a long time because it is not clear for which area the claimants will decide. A deadline for choosing the site of restitution should be set as soon as possible in order to provide the state with clear figures on the size and location of its vacant agricultural land. It is estimated by National Land Service that there will be around 500.000 ha of vacant agricultural state owned land after the restitution process has come to an end. But only after this reform has been finished, the state will have a real chance to estimate how much and what particular land belongs to its portfolio in the various regions of the country. Undesired side-effects of this uncertain perspective are the high proportion of abandoned land and the partial reluctance to lease land for an intermediary period of time. Therefore, it seems reasonable that farmers are preferring to buy land. It is anticipated that the farmers will be more interested in leasing land if the conditions for lease are more favourable to them, in particular, in terms of providing security.

It is anticipated that claimants will choose places of restitution with potentially higher economical growth and/or better soil and farming possibilities. This development corresponds with the lower restitution figures in the Vilnius, Kaunas and Klaipeda region and higher ones for example in the Marijampole district. Also it is most likely that the remaining free state owned land will tend to be land with lower quality and/or in regions with lower farming and economical potential.

As a result of the land reform, agricultural structures in Lithuanian rural areas are determined by very small family and household farms. They are too small and fragmented to achieve successful farming within the Common Market.

Different objectives could be envisaged:

- a) Achieving and securing competitive strength of the Lithuanian agricultural sector within the Common Market. This would require the support of large, flexible, financially powerful and credit-worthy agricultural farms and enterprises.
- b) Satisfying farmers’ personal needs by securing family income; furthermore, sale of surplus production in the domestic market. Strengthening of small family businesses would be sufficient.

Lithuanian agricultural policy is determined by:

- **EU membership :**
 - Participation in the Common Market;
 - Implementation of the CAP reform provisions 2003.
- **Current position of the Lithuanian Government concerning the agricultural and food sector:**
 - Increasing the size of farm land;
 - Financial incentives for young farmers.

For Lithuania there is only one alternative:

Due to that the agriculture sector is very important for the national economy, and the aim has to be to develop a competitive farm structure and to reduce the land fragmentation.

Therefore the ***strategic goals of the agricultural policy now are as follows:***

- To establish a competitive agriculture and food sector;
- To produce high quality and safe food products;
- To maintain a sustainable economic and social development in rural areas meeting the regional peculiarities;
- To promote ecological farming.

The small average size of an agricultural holding is a major problem for the development of a competitive agricultural sector. Therefore, the process of changing the structure of agricultural farms has to be speeded up. In this process the establishment of co-operatives/common marketing/buying organisations is also considered as a solution for small producers to strengthen their position.

3. Recommendations

In order to develop competitive strength within the Common Market, Lithuania should focus on improving agricultural structures, in particular, supporting large farms that are able to meet economies of scale. The fulfilment of this goal will be a considerable challenge for the national agricultural structural and land policy.

At the final stage of the restitution of land ownership rights in Lithuania it is anticipated that approximately 500.000 ha will remain as free state owned land. This land is subject to further privatisation.

This free state land is owned by the Republic of Lithuania. The state is responsible for the process of privatisation (lease/selling). The state has to secure that the strategic goals of the privatisation process are uniformly executed throughout the Republic of Lithuania. The priority to acquire free state owned land is given to persons who are willing to reconstitute their ownership rights while the persons who are using state owned land parcels are not guaranteed the permission to buy the land parcels they are using.

Therefore, it is necessary to set the expiry date to choose the place of restitution. Until then there will be no clear picture of the free state owned land.

In order to achieve the objectives of the structural policy, pre-conditions have to be ensured for speeding up the process of consolidation and enlargement of farm holdings.

Therefore, it is necessary to:

- Identify plots of free state owned agricultural land and to make their inventory;
- Create favourable conditions (both legal and economical) for successful farmers to secure the long-term disposal and acquire (purchase or lease) additional farmland on the private land market as well as buy state owned agricultural land.

For the process of lease and sale of state owned agricultural land registration and analysis of the land is necessary (number of plots, agricultural potential, location, potential of development/for non agricultural use, potential of increasing value of the land).

It is also useful that agricultural free state owned land is sold only after the public needs of the area are clarified and laid down in territorial planning documents. The planning process has to serve public interests not individual (institutional/private) interests. State owned agricultural land should not be sold in such areas, which are foreseen for important public purposes in territorial planning documents or land management schemes. Until the final use is clarified this land as an alternative can be leased out.

To prevent further fragmentation an agricultural parcel for sale should not be less than a certain size.

The national development plan as well as regional/territorial planning have to be extended (more financial funds are needed) in order to set the “cornerstones” of rural and economic development.

The project partners proposed to introduce a phase of leasing free state owned land before the sales process is implemented at a large scale. The policy should include the lease-out of agricultural state owned land taking into account the priorities of the structural policy of the area.

The reasons for this recommendation are:

- To consolidate the emerging and existing agricultural farms (stabilisation of the enterprises, saving liquidity, reshaping the agricultural structure);
- To finish the restitution (the change of the place of restitution is the main obstacle in the whole reform process);
- To enable the thorough process of territorial and regional planning;
- To consider the development of the real estate market (it is anticipated that the value of agricultural land will raise);
- To use the potential of higher revenues for public purposes (not to privatise the future value gains).

As any purchase of land by farmers is likely to decrease other important investments in agriculture, long-term leasing for a transitional period would suit better the current economic situation of farmers. Moreover, the German experience shows that land

lease is also a sufficient privatisation method in compliance with EU rules especially if it is introduced for a transitional period (also mid-term (6-12 years)).

Today Lithuanian co-operatives and legal entities own only 6% of all agricultural land. They and/or their members should have equal opportunities when purchasing agricultural property. Ways of leasing idle land to the co-operatives or their members should also be examined.

II. Objectives and desired results of the laws pertaining to the lease and sale of state owned agricultural land – the legal framework

1. Current situation - background

Laws and regulations on privatisation of agricultural land have been drafted. They should be subject to review according to EC rules and constitutional requirements (rule of law). Furthermore, the suitability of current legal/economic policies should be discussed.

2. Review of laws and regulations on privatisation of agricultural land regarding EC rules, constitutional requirements and suitability of current legal/economic policies

a) State aid (Art. 87, 88 EC Treaty)

1. State support to natural and legal entities for acquisition of agricultural land is considered under EC law to be state aid that is subject to scrutiny by the EC Commission. According to the Accession Treaty, Annex IV 4., „Agriculture“, state aid on the acquisition of agricultural land is treated as „existing“ (legal) state aid (Art. 88 (1) EC Treaty) for a period of three years after accession (30 April 2007) if it is notified to the Commission within four months after accession (1 September 2004). Other state aid that does not meet these requirements will be treated as „new“ aid (Art. 88 (3) EC Treaty) after the day of accession and will be subject to the notification and approval procedure laid down in Regulation (EC) No. 659/1999 of 22 March 1999 (Official Journal No. L 83 of 27 March 1999, pp.1ff.) (concerning: *Law Amending Provisional Law on the Acquisition of Agricultural Land, 2004; Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003; Law on Agricultural and Rural Development, 2003*).
2. State-owned land that is not intended to be sold by public tender or auction has to be evaluated by an independent, licensed expert in order to avoid suspicion of being an unnoticed state aid (concerning: *Law Amending Provisional Law on the Acquisition of Agricultural Land, 2004; Law on Land Reform, 1991, as amended; Law on Land, 2004; Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003*).
3. State-owned land that is conveyed to persons without equitable payment is considered to be an unlawful state aid unless the allotment is exclusively intended to be compensation for real property lost in the past (concerning: *Law on Land Reform, 1991, as amended*).
4. Preferential tax rates or tax holidays in the agricultural sector are, if not mutually agreed upon on the basis of common agricultural policy (CAP), considered to be state aid that is subject to scrutiny under rules on agriculture

of the Accession Treaty (cf. comments under 1.; concerning: *Law on Agricultural and Rural Development, 2003*).

b) Basic freedoms, competition rules and prohibition to discriminate (Art. 12, 43ff., 49ff., 56ff. EC Treaty)

1. Restrictions on acquisition of private agricultural land in size might interfere with freedom of capital movement after the 7-year transitional period (concerning: *Law Amending Provisional Law on the Acquisition of Agricultural Land, 2004*).
2. Pre-emption rights on both state-owned and private agricultural land might interfere with freedom of settlement as well as anti-discrimination rules. Furthermore, pre-emption rights might violate freedom of capital movement after the 7-year transitional period (concerning: *Law Amending Provisional Law on the Acquisition of Agricultural Land, 2004*; *Law on Land, 2004*; *Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003*).

c) Constitutional Requirements (Rule of Law)

1. The constitutional right to own private property (Art. 23) should be strongly defended by taking real estate for public needs because:
 - The legislative branch has the power to grant constitutional rights and the obligation to determine their limitations. It, therefore, has to enact laws that define “public needs” and “fulfilment of state functions” for particular tasks to be carried out by the administration as part of the executive branch.
 - Before expropriating private land, the administration has to check whether there are measures available that would infringe less upon people’s property rights but could reach the same goal – i.e., the administration has to observe the basic principle of proportionality (concerning: *Law on Land, 2004*).
2. Pre-emption rights on both state-owned and private land could violate the right of equal treatment (Art. 29) and the right to own private property (Art. 23) (concerning: *Law on Land Reform, 1991, as amended*; *Law on Land, 2004*; *Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003*).
3. Restrictions on use and disposal of land should be limited to reasonable exceptions, since they interfere with the universal concept of private property that implies free use including non-use by its owner (concerning: *Law on Land Reform, 1991, as amended*; *Law on Land, 2004*).
4. Most of powers related to land reform management and administration are vested in the County Governors. The concentration of powers in one hand could cause corruption (concerning: *Law on Land Reform, 1991, as amended*;

Law on Land, 2004; Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003).

5. Laws should be coherent, consistent, free of contradictions and they should provide continuity. Laws that do not meet these requirements could undermine the rule of law. Critical aspects in this regard are the number and variety of definitions given, civil regulations on lease contracts and easements as well as regulations on settlement of disputes/complaints/ court proceedings (concerning: *Law on Land Reform, 1991, as amended;; Law on Land, 2004; Government Resolution on the Organisation of Sale and Lease Auctions of State-Owned Agricultural Land, 2002, draft; Law Amending Constitutional Law on the Subjects, Procedure, Terms and Conditions and Restrictions of the Acquisition into Ownership of Land Plots, Provided for in Paragraph 2 of Article 47 of the Constitution of the Republic of Lithuania, 1996, draft).*

d) Restitution vs. Investment Policies

The "first restitution, second sale/investment rule" does, in its rigid form, not serve the Lithuanian economy. Intermediary lease of agricultural land and priority of purchase by investors should, as far as jobs and investment are guaranteed, be pursued (concerning: *Law Amending Provisional Law on the Acquisition of Agricultural Land, 2004; Government Resolution No. 236 on the Sale and Lease of the State-Owned Land Parcels for Agricultural Purpose of Use, 2003; Law on Land Reform, 1991, as amended; see: Law on Land, 2004, Art. 9.11, for intermediary lease).*

3. Recommendations

a) State aid

In the process of improving the current legal system the following legal provisions should be taken into consideration in the light of EC competition rules:

- state support provided to natural and legal entities for the acquisition of agricultural land;
- preferential tax rates or tax holidays defined;
- state-owned land that is not intended to be sold by public tender or auction has to be evaluated by an independent, licensed expert;
- state-owned land should not be conveyed to persons without equitable payment for other purposes than compensation for real property lost in the past.

b) Basic freedoms, competition rules and prohibition to discriminate

In the process of improving the legal system the recommendation is to take into consideration EC rules on basic freedoms, competition and anti-discrimination:

- restrictions on acquisition of private agricultural land in size (freedom of capital movement);
- pre-emption rights on both state-owned and private agricultural land (freedom of settlement and anti-discrimination rules);
- acquisition of services by the state that may neglect equal treatment of competing bidders on the basis of a transparent selection procedure.

c) Constitutional requirements (rule of law) and rules on competition

In the process of improving legal acts equal treatment of constitutional rights to private ownership should be guaranteed and properly evaluated against the Law in accordance with Constitutional aspects and EC competition rules:

- executive power to expropriate real property without:
 - legal acts that define “public needs” and “fulfilment of state functions” for particular sectors and
 - observing the basic principle of proportionality (constitutional balance of powers);
- pre-emption rights to both state-owned and private land (right of equal treatment and right to own private property; rules on competition);
- restrictions on use and disposal of land (right to own private property; rules on competition);
- risk of corruption by concentration of power in one hand (right to own private property and right of equal treatment; rules on competition);
- Laws should have a clear structure and limited complexity; they should be free of contradictions and accompanied by implementing regulations (rule of law).

d) Leasing of state-owned land

Leasing policies on non-identified and non-registered land should be liberalised by transitory regulations which may be outlined as follows:

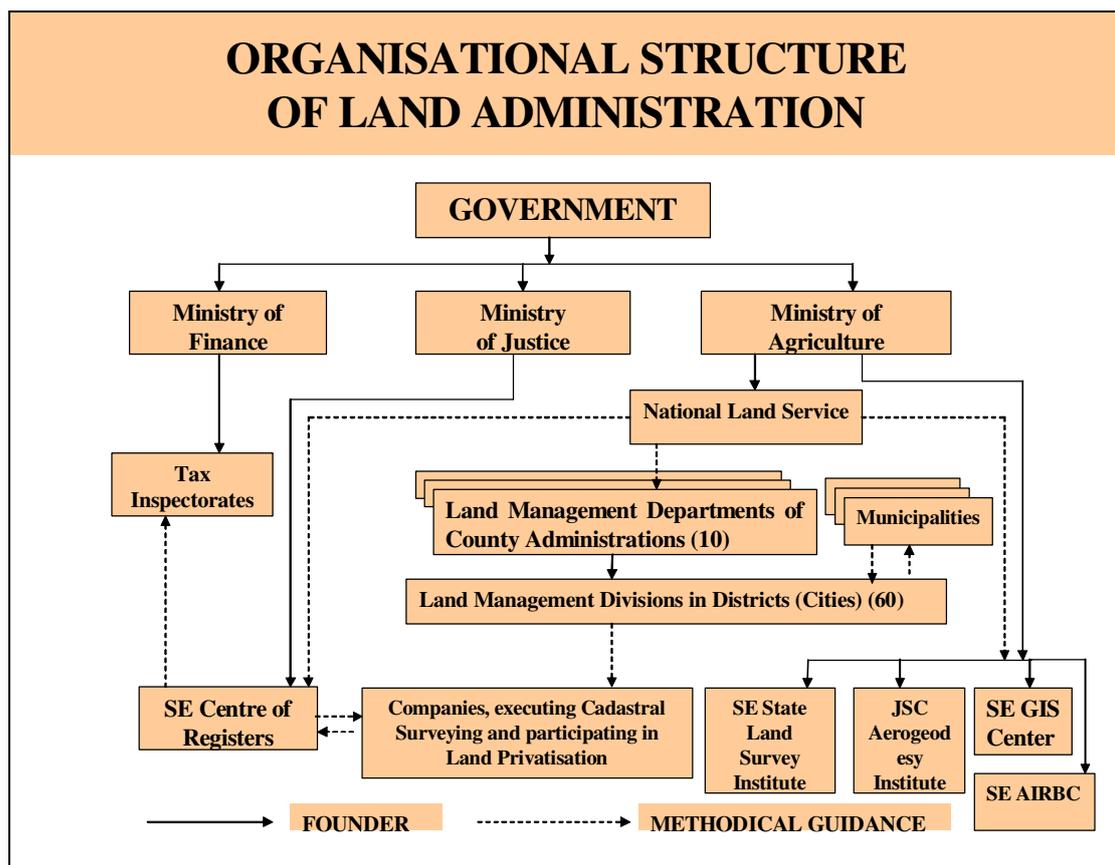
- taking commonly used pathways and water bodies as a basis;
- getting in contact with owners and users of adjacent land parcels in order to research “traditional boundaries”;
- forming land parcels according to measuring points determined by GPS satellite system that form state-owned land parcels;
- preliminary registration of GPS measuring points that form state-owned land parcels.

III. Tasks of the authorities regarding management, sale and lease of vacant state owned agricultural land

1. Current situation - background

According to the Law on Land Reform, Law on Land and Provisional Law on Acquisition of Land the process of restitution and privatisation is described thoroughly. The free state owned land of the Republic of Lithuania is administered by 10 County Administrations and 60 Municipalities/cities (sometimes translated as districts, while villages are also translated as neighbourhoods). Despite the laws regulating the steps which have to be taken in the land reform process as well as in the privatisation process are available it is assumed that a uniform land reform approach in the whole country is not implemented, yet.

The land reform duties, the land administration tasks as well as current privatisation activities are fragmented between different bodies and levels in the organisation of Lithuanian administration.



Laws and decrees related to this project are enacted by the Government of the Republic of Lithuania. The Government also decides which duties each administration/organisation has in the land reform process.

There are 3 levels of administration in relation to the process (NLS/County/municipality):

The duties of the

- ***County Administrations - main tasks:***

1. Implementation of the land reform according to the existing laws, decrees and guidelines:
 - 1.1 conveying state owned land without payment to private individuals (mainly restitution) according to the Law on Land Reform;
 - 1.2 approval and implementation of all land reform and land management schemes, plans and documents;
 - 1.3 supervision of land management planning documents;
 - 1.4 providing necessary data for registration of free state owned land.
2. implementation of the state policy/aims for territorial planning, land use and (environmental) protection;
 - 2.1. monitoring the activities related to changing the use of land in relation to regional/territorial plans (e.g. changing from an agriculture zone to an industrial zone), land use, environment protection according to land management plans;
 - 2.2 organising and implementation of administration of the state owned land.

- ***Municipalities/district administrations – main tasks:***

1. to co-ordinate and/or approve land management planning documents:
 - 1.1. to approve and implement territorial planning documents as well as detailed and special plans;
 - 1.2. to submit to County Governor proposals regarding privatisation (sales and lease) of free state owned land as well as proposals for expropriation for public needs.
2. to administer and carry out the land reform for the land, which was allocated to Municipalities by an order of the Government:
 - 2.1. to convey land without payment as well as sell or lease the allocated land;
 - 2.2. to manage free state owned land allocated by the Government to the Municipality.

The County Administrations are under supervision of the Ministry of the Interior. Municipalities are self-governed bodies and are as well under supervision of the Ministry of the Interior. Despite the regulations in the laws there are some organisational constraints between both administrations. Beside the interest of municipalities to get free state owned land, which is allocated to them, because of gaining revenue (revenue from lease as well as 50% of the revenue received from land privatisation for non-agricultural purposes go to the municipality budget) it occurs that in reality there are different mutual interests and opinions between municipalities and counties. This leads to lengthy consulting processes between both administrations.

A third institution is involved in the land reform process, that is the National Land Service under the Ministry of Agriculture. Therefore, it is a separate organisation under a different part of the Government.

The National Land Service has the following main tasks:

1. To prepare and approve guidelines (working rules), methodology and instructions for information systems (real property cadastre, land management and information system):
 - 1.1. to organise the information of the national land portfolio (private and state owned property);
 - 1.2. to collect and provide information on land management and administration of the land reform;
 - 1.3. to co-ordinate the control of state land use.
2. to supervise the land management planning and other land management activities:
 - 2.1. to provide guidelines for the management of state owned land as well as for preparing documents for expropriation of land for public interests;
 - 2.2. to approve in special cases land management planning documents (e.g. the master plan for the territorial development of Lithuania and the regional and sub-regional plans);
 - 2.3. to represent the state in court in the cases when the decisions of counties/municipalities in relation to the land reform are challenged.
3. to plan and organise land management activities through special programmes like land consolidation.

According to the land reform legislation County Governors' Administrations have the right and duty to elaborate land reform land management plans for each cadastral area (they vary in size, mainly in the border area of a village/ neighbourhood). Selected in accordance with the tender procedure by County Administrations approved institutions or private companies (in general professional surveyers) have to fulfil all tasks necessary to create land reform land management plans.

Authors of these plans have to:

- clarify restitution claims;
- together with claimants identify the area of the land under restitution delineating borders and mapping them;
- introduce new parcels according to claimants who changed their place of restitution;
- define the place of household plots;
- draft the area which should be sold or leased out according to the applications existing at that time;
- define free state owned land.

After this work has been done and all participants agreed on that actual version of the land reform land management plan the plan is presented to the County Administration (Land Management Department). The County Governor has to

approve the plan within 2 weeks after it has been made public if there are no complaints. With this decision this version of the plan is closed.

After that approval surveying work has to be carried out (in general this work comprises normal measuring while surveying by geodetic means is done only on special request of claimants and it is charged while the normal measuring is free of charge). After the plots have been measured (surveyed) they can be registered. At this stage the County Administration can decide whether the „free state owned land“ can be sold according to the procedures prescribed by the relevant laws.

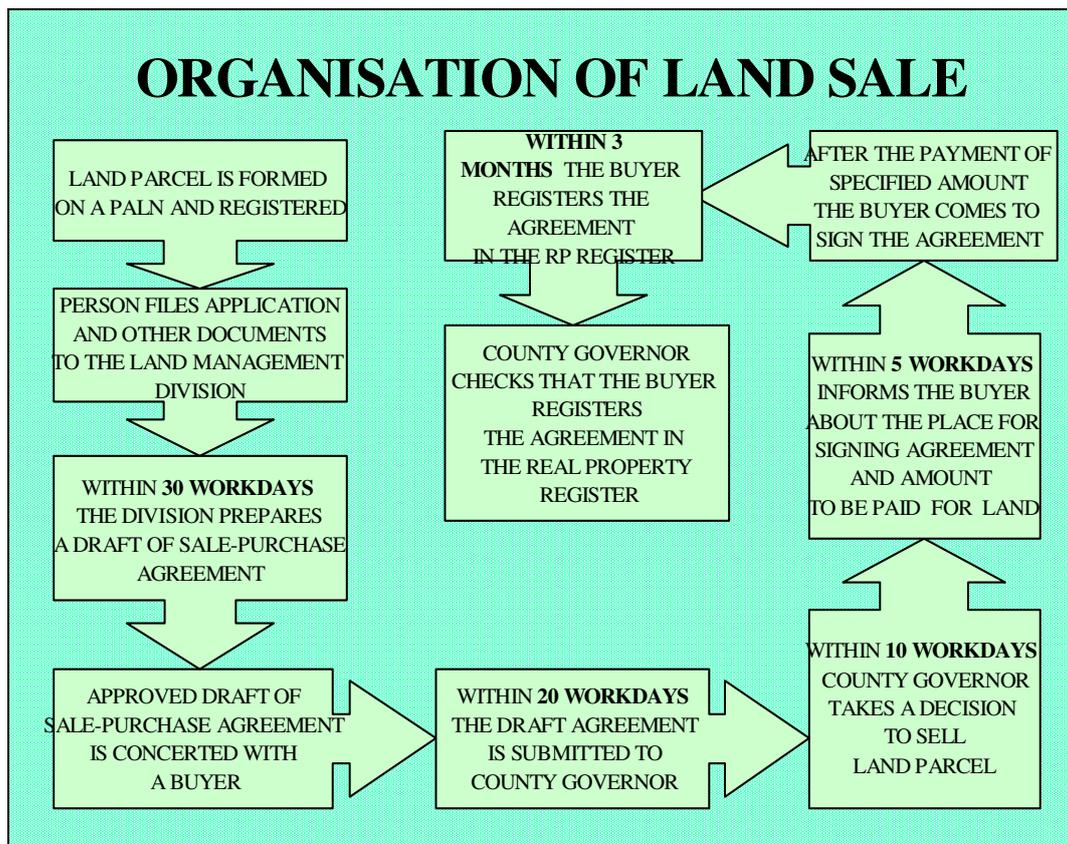
If claimants who want to change their place of restitution apply for restitution of their ownership in such a “closed” area the County Governor has to „reopen“ the land management plan after the registration procedure has been accomplished to delineate new parcels which are subject to restitution. Until that procedure is not finished and the land management plan is „open“ for further claims no free state land can be privatised (sold or leased out) because it might be subject to further claims. Farmers willing to buy or to lease the land cannot proceed until the land management plan is “closed” again. This procedure will carry on until all claims are settled. And since there is no expiry date for changing the place of restitution it will be an ongoing process for some time.

According to the Law on Land, free state owned land can be sold or leased out. The lease decisions according to the laws and regulations are proposed by municipalities and have to be approved by County Administrations while sale is organised by County Administrations. County Administrations are also entitled to lease free state owned land. Municipality administrations can take decisions only about the land, which was allocated to the municipalities by a governmental decree.

The **procedure for sale** of agricultural land is as follows:



The **organisation of land sale** is:



The revenue from land lease is income for the municipality budget while the sales payments are transferred to County Administrations.

The minimum lease price is 1.5% (property tax) and maximum 4% of the fixed value for land (by means of mass valuation, not by individual valuation and agreements). This value (mass valuation) set by cadastre authority and approved by the NLS may differ from the real market value of the plots. Due to the actual market situation the lease price is generally low. In general the lease price for state owned agricultural land is 1.5% of the mass valuation value of the leased parcel, which equals the property tax.

The sales revenue from sales for agricultural purposes is transferred into the state budget while payments for sales for non-agricultural use is divided between the Municipality and the County on behalf of the state budget. Like in case of lease the basic sales price is determined by means of mass valuation and not by individual valuation and bargaining.

2. Conclusions

1. Difficulties could arise from the fact that two (counties and municipalities) or even three (including NLS) institutions are involved in the land reform process, thereby causing overlapping of tasks and functions. Interests of municipalities and counties are different and conflicts of interest may occur. A conflict of interest could arise due to division of revenue between lease and sales (as well as between land sales that serve different purposes, cf. item 4). Despite the fact that sale should have priority, municipalities are interested in generating income by

land lease. As pointed out in the Discussion Table II, this problem has occurred before. Furthermore, proposals of municipalities are sometimes rejected by county administrations and decisions made by them are not (or only in some cases) communicated to the municipalities (and vice versa). There are no dispute solving mechanisms between these institutions except for the fact that the final decision making power is vested in the County Governor (eventually, after a time consuming and bureaucratic process). Probably, the cumbersome decision making procedure is also due to the fact that the heads of both administrations are members of the “political class”, and, furthermore, that no other institution equipped with monitoring and supervising functions on government level has been established. Decisions may only be challenged in court (cf. item 3).

2. Another obstacle is that despite the regulation by Law the acting administrations (counties and municipalities) and their political heads are (quite) close to the „object of interest“. We could only forecast whether that might cause possible pressure from formal and informal interest groups either on the administration itself or via political decision makers. It has to be questioned whether the „short distance“ between decision makers and the objects of decision making will be an obstacle for the development of the privatisation process in the future. For preventive measures against corruption/“misguided decision makers” there should be a “bigger distance” between the decision makers and the object of decision making to secure independent decisions outside the day-to-day influence of interests and politics.
3. As for now, there is no effective supervision and monitoring system on the governmental level implemented. The County Administrations as well as the Municipalities are under the supervision of the Ministry of the Interior while the National Land Service (NLS) under the Ministry of Agriculture is responsible for guiding the whole land reform process. Despite of being responsible for the guidelines and for some information gathering in the land reform process the NLS has no right to monitor, supervise or interfere in the practical decision making process. The NLS has only the right to challenge the decisions of Municipalities/Counties in court. This can be again a lengthy and costly process.
4. In case land is sold for other purposes than agriculture (e.g. housing, industrial zones or infrastructural investments), revenue is divided between Municipalities and County Administrations. The Municipalities have to reinvest this money for planning purposes and improving infrastructure. Setting higher revenues aside, the municipalities in regions of higher economic activities and growth are gaining more in comparison with remote municipalities by increasing sales prices for land serving non-agricultural purposes. Because the revenues of remote rural municipalities are lower the funds for planning tasks and investments for improving the infrastructure might permanently lag behind the regions with higher economic growth. It might be worthwhile to monitor the flow of revenues from privatising and leasing non-agricultural land subject to be reinvested for development of infrastructure according to regional needs in line with the national development plan as well as accompanying subregional plans. In doing so, it could be examined whether all revenues flow into the State Budget and whether the regions/counties/municipalities will be financed according to the development plans.

5. National/regional and territorial planning should be in place before privatising land on a large scale. For an effective land consolidation result it will be a must. The reason for this is obviously to avoid privatising plots, which will later be needed for infrastructure or other purposes of public interest. Expropriation or buying back is more expensive and can be as well a lengthy process as well. Territorial planning shall be in the interest of the society and geared to the future development of the nation, counties and municipalities. Therefore, the planning activities have to be performed separately from the privatisation tasks.

3. Recommendations

1. The state has to secure that the strategic goals of the privatisation process, are executed uniformly throughout the Republic of Lithuania. Therefore, it is questioned whether the current system with 10 county- and 60 municipality administrations can ensure a uniform approach. Moreover, because of different interests of municipalities and counties (aims of privatisation, revenue, etc.) it is questioned to what extend the current situation lacks efficiency and transparent decisions. Having partly similar duties as well as led by politically dependent heads both levels of administration may be inefficient. Therefore, it is questioned to what extend county and municipality administrations should be involved in the future privatisation process.
2. The institutions, which are included in the process of privatisation, have to be enabled to handle the privatisation process efficiently and transparently. An efficient monitoring system has to be introduced.
3. There are 2 models which should be further discussed:
 - A (new) central institution/authority with regional branches, which is responsible for the privatisation (lease and sales) process. The County and Municipality administrations have to be consulted (recommendations, no veto rights, the last final decision lies with the new institution) in the decision making process to secure the regional interests. An important tool for that consulting procedure will be the regional and territorial development plans.
 - The privatisation will be a task of County and Municipality administrations in future as well in co-operation with the central institution/authority with clearer rights of co-ordination, supervising and monitoring competencies. The organisational and decision-making process has to be adjusted and improved in relation to efficiency and transparency. The disadvantages of a very scattered (fragmented) responsibility in a decentralised system have to be minimised at the same time reducing overlapping of competencies of the involved institutions.

German experience suggests establishing a centrally structured (i.e., professionally organised and monitored by government administration) institution to carry out further privatisation. Such an organisation/institution should consist of a headquarters with regional branches. While their job is actually privatising agricultural land, they will be monitored as well as get assistance by the central unit providing both guidelines for privatising procedures and solutions for difficult

cases. The required number of regional branches would depend upon Lithuanian needs and territorial requirements. The institution could be established by both NLS as well as Land Management Departments being part of the Counties. It would represent a uniform privatisation approach, thus being able to work efficiently. The idea is to privatise by „one hand“ instead of involving several institutions having different tasks and interests as well as different approaches. A division of planning and implementing procedures between decision-making institutions may hamper efficiency, be costly and lack transparency. A centrally organised institution could serve as an alternative to the currently divided responsibilities of different Lithuanian Ministries in charge of the land reform and land privatisation process. Furthermore, the „fences against corruption“ might be higher because people involved in privatisation procedures would have a neutral attitude towards to the object of privatisation, thereby being independent from local bias.

It does not have much relevance for the privatisation process whether that organisation (state enterprise model) is monitored by a single ministry (e.g., Agriculture, Finance or Justice) or by several governmental bodies. The flow of revenues would have more importance. The balance should be incorporated into the National State Budget.

These suggestions have to be outlined more precisely by an in-depth analysis adding details to the organisation, monitoring and supervision of the recommended new institution (as an example of this a presentation of control, guidance and supervision mechanism of privatisation process in BVVG is attached in the Annex). The requirement for in-depth analysis will also apply if the current organisational design is not changed at all or if the municipalities become in charge of the privatisation process. Furthermore, the future organisational design and the management of vacant state owned land should be linked to the organisation of land consolidation plans.

As the interests of municipalities and counties are to be considered appropriately, they should be granted advisory power. Territorial planning conducted by municipalities should serve as a basis for their consulting rights during the privatisation process (see also point 1 of the recommendations of this chapter).

4. The issue whether land consolidation and possible further administrative tasks of the agricultural administration (administrative service of the Ministry of Agriculture) might be integrated into such an organisation could only be discussed in further projects. In particular, it would be worthwhile to consider integrating land consolidation. On the other hand it is recommended to define exactly the tasks and responsibilities of privatisation and land consolidation. Land consolidation is an important and effective tool to support the privatisation process but it cannot replace privatisation.

Land consolidation is an ongoing, costly task (also when subsidised by European financial means) when it is done nation-wide. Due to different aims, different time periods of privatisation and land consolidation as well as to define exactly the costs, the budgets have to be held separately and also transparently. Ideas of financing land consolidation by privatisation revenues is, in our view, not a feasible option because of the long-term process of land consolidation.

IV. The future role of the National Land Service

1. Current situation - background

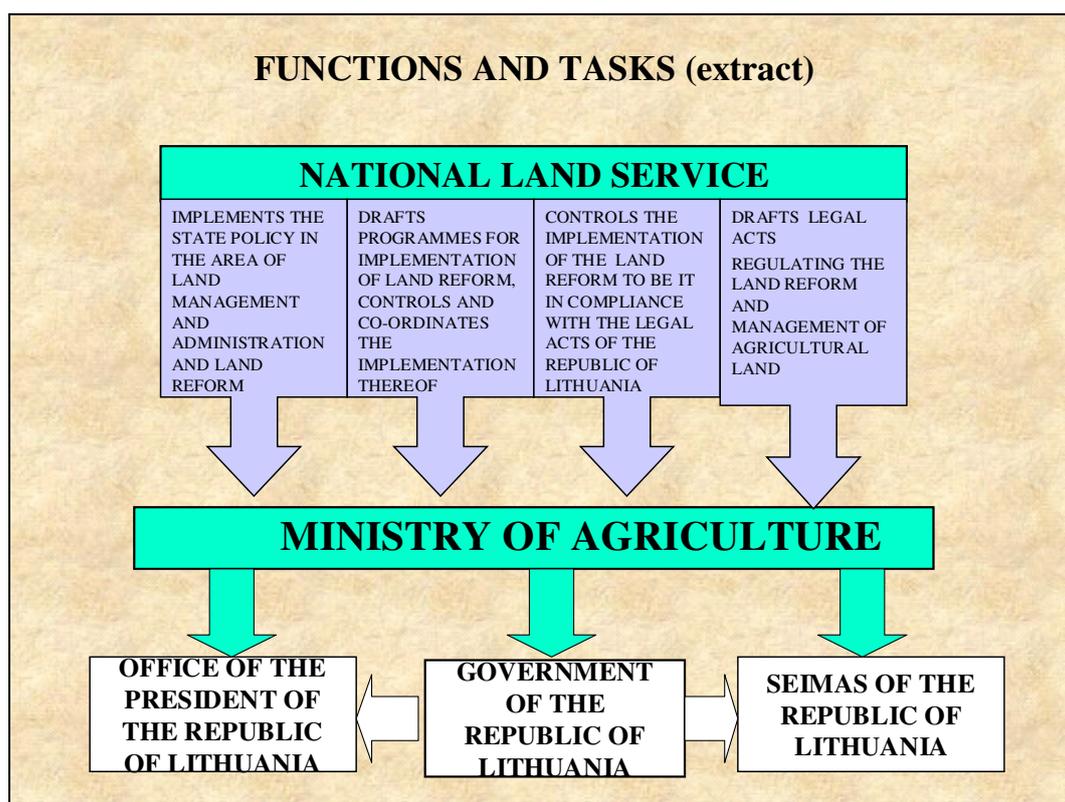
The National Land Service was established on 1st July 2001 by reorganisation of the Land Management and Law Department under MoA and the National Geodesy and Cartography Service under the Government of the Republic of Lithuania.

The legal basis was the Government Resolution of the Republic of Lithuania No 709 dated 2001-06-12.

The **goals of establishment** were:

- ensure better organisation of:
 - Land reform activities;
 - Geodesy and cartography activities;
 - Development of Land Information Systems.
- Link the Land Information System with the administration of support for agriculture and rural development;
- Make the use of national funds more effective.

In Chapter III the **main tasks and the functions** of the National Land Service are stated:

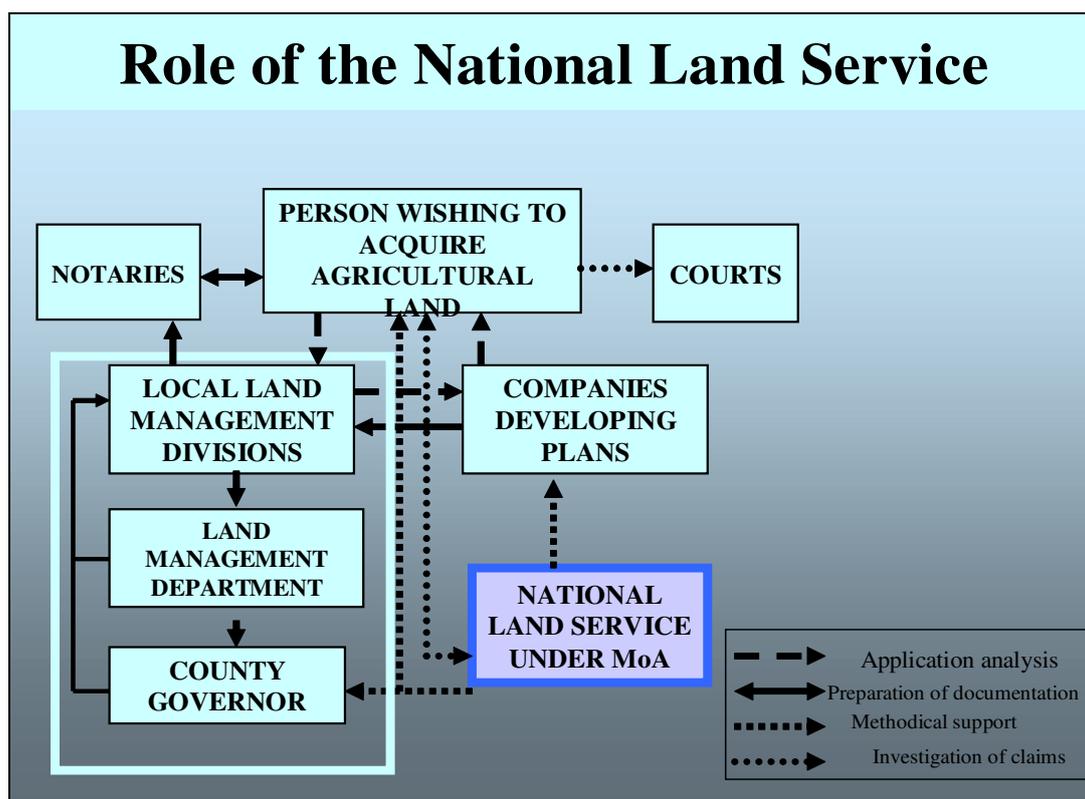


To fulfil these tasks, the National Land Service has the following **competences** in selling and leasing the state-owned agricultural land:

- prepares drafts of legal acts regulating the land sale;
- co-ordinates and controls the land selling process;

- plans the land management activities funded from the National Budget and special programmes;
- provides methodological guidance for privatisation and lease of state-owned land;
- provides consultations to institutions and individuals regarding the privatisation and lease of land;
- analyses the applications and claims of citizens and other persons regarding the privatisation and lease of land.

In this process, the **role of the National Land Service** is determined:



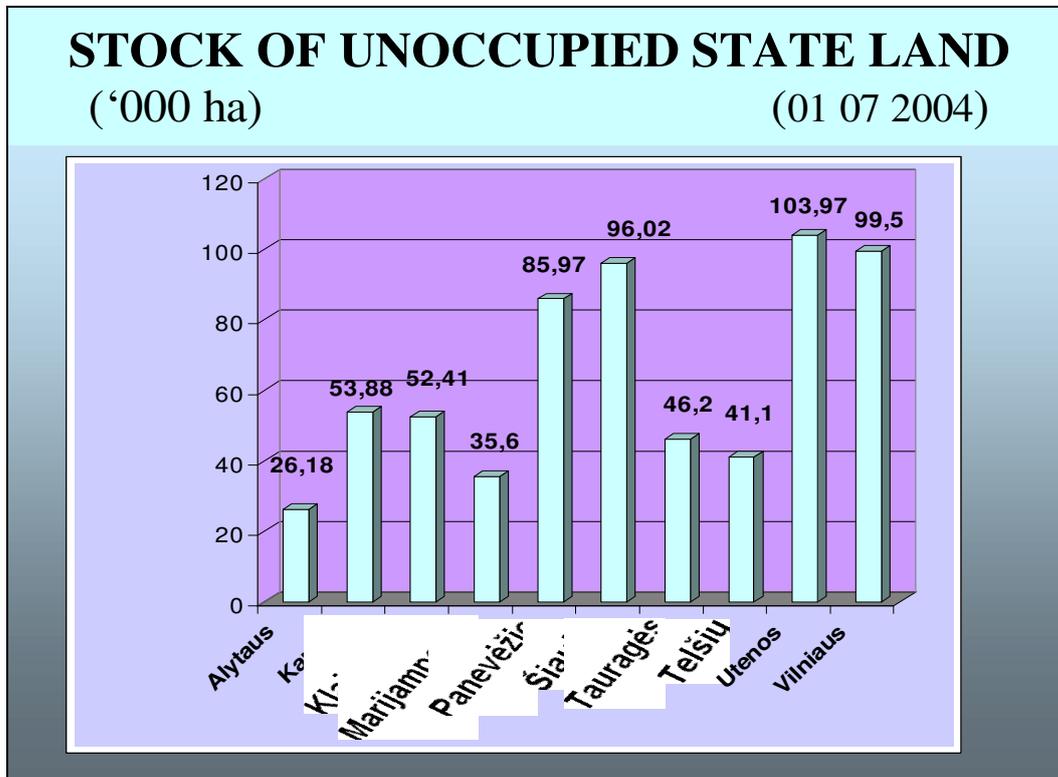
2. Conclusions

For the **future role of the National Land Service** it is necessary to consider:

- The current political and economic situation;
 - what kind of land is sold and who buys (would buy) it;
 - to satisfy the requests of individuals to buy land as soon as possible;
 - to avoid making the sale procedure for land as complicated as the land restitution procedure;
 - priority in Lithuania is given to sale of agricultural land instead of long-term lease.
- The scope of **necessary activities**:
 - a. In view of the total number of applications to restore ownership rights of citizens there should remain over 600 000 ha of unoccupied land, which includes 100 000 ha forest.

- b. About 7 500 individuals filed their applications to buy over 65 000 ha of agricultural land;
- c. 156 legal entities applied to buy 34 000 ha land.

- The **workload** and **regional aspects** :



- What **kind of land** has to be sold:
The remaining unoccupied state land stock mostly consists of:
 - a. land parcels leased by farmers and agricultural companies;
 - b. land areas situated far away from settlements;
 - c. abandoned, non-cultivated land areas covered by bushes;
 - d. unimproved land areas;
 - e. land parcels with difficult access - no road;
 - f. land areas with low productivity grade of farming.
- What **land is most demanded** for purchase:
 - a. Granted to and used by villagers for personal farming;
 - b. Land plots squeezed in between private land parcels;
 - c. Leased by farmers and agricultural companies since July 1995;

- d. Other land leased to farmers and agricultural companies to which no applications to restore ownership rights were filed.

- **Organisational aspects**

- a. Do the local Land Management Divisions have sufficient technical and financial resources?
- b. Is the number of staff at the Land Management Divisions sufficient?
- c. Is the professional readiness of staff satisfactory?
- d. Is the co-ordination and control of land sale guaranteed?

3. **Recommendations**

1. The interest of municipalities is that all state owned land is allocated to them. There are the following advantages and disadvantages in relation to this decision:

<ul style="list-style-type: none"> • ADVANTAGES: ➤ municipalities make decisions independently; ➤ the power is closer to people; ➤ land sale will be executed by municipalities, while the County Governors will control the sale. 	<ul style="list-style-type: none"> • DISADVANTAGES: ➤ it is more complicated to co-ordinate and control the process; ➤ more influence over the decision making; ➤ not completed restoration of ownership rights of citizens to land.
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According to the German experience interests of Municipalities and Counties in the privatisation process have to be considered in such a way that Municipalities should have consulting rights.

2. There are also many reasons not to transfer the functions and functional allocations in the process of privatisation of free state owned agricultural land from counties to municipalities or to the National Land Service:

- the work will stop for half a year or even longer due to the reorganisation of activities;
- not finished restoration of ownership rights of citizens to land;
- high enough costs of reorganisation;
- unified process;

- better co-ordination of work.
3. Before changing the function the following decisions have to be made:
- Will the change of the current organisational – institutional structure speed up the sale of agricultural land?
 - Are the County Governor Administrations stimulated (interested in) selling and/or leasing agricultural land?
 - Would municipalities be interested in that?
 - Will the time and financial resources used for reorganisation be recovered?

V. **Business plans – aid for decisions to improve the agricultural structure**

1. **Background**

In the Chapter II the legal acts regulating the privatisation of state owned agricultural land are stated. According to the Provisional Law on the Acquisition of Agricultural Land, the state owned agricultural land in Lithuania may be acquired by:

- Natural and legal entities of the Republic of Lithuania;
- Foreigners who have permanently lived and been engaged in agricultural activities for at least 3 years;
- Foreign legal entities and other foreign organisations that established representative offices or subsidiaries in the Republic of Lithuania;
- Foreign entities not complying with these requirements will be able to acquire the land after the a 7-year transitional period.

State owned agricultural land may be sold according to land reform land management plans only in those cadastral areas where the restitution of land ownership rights was completed, except for transfer of land to municipalities for the performance of the functions set by law and for the sale of land parcels formed in the land reform land management plans.

The **conditions** for land sale are laid down in the Article 8 of the Law on Land Reform. In the course of the land reform land, forest and water bodies shall be sold:

- according to the first priority specified in the Article 10 of the Law on Land Reform and
- after the land parcels are formed according to the land reform land management plans or other territory planning documents.

The **priorities for citizens to acquire land, forest and water bodies** are specified in the Article 10 of the Law on Land Reform:

“(6) land parcels used for agriculture are sold to the natural persons indicated in § 13 of Article 4 of the *Law on Restitution of Ownership Rights of Citizens to the Existing Real Property*, also the parcels for setting up a farmers farm, which have been assigned to the land which is subject to be purchased by the state are sold in the manner laid down by law to the citizens who are using the said land parcels;

.....
 (7) Land plots allotted for individual farming shall be sold in accordance with the procedure established by law to the citizens using that land;

.....
 (11) Agricultural land is sold to the persons indicated in the *Provisional Law on State Support for Acquisition of Agricultural Land* who are using this land for at least 2 years in succession;

(12) Agricultural land is sold to the persons indicated in the *Provisional Law on State Support for Acquisition of Agricultural Land* who are using the land parcels that have common boundaries with the land parcels for sale;

(13) The land is sold to the natural persons living in that cadastral area or to the persons who have acquired buildings for production in that cadastral area when the land is necessary for exploitation of these buildings;

(14) Land is sold to other persons.”

Land may be purchased by

- **Natural persons**
 - who have registered a farm or
 - have a qualification certificate on readiness for farming
(This provision does not apply if the area of farmland of a land parcel possessed by the right of ownership after the acquisition will make no more than 3 ha).
- **Legal entities**
 - whose income generated from agricultural activity within the last 2 years makes at least 50%.

The following persons shall have the **right of priority to buy** state owned agricultural land (Article 5 of the Provisional Law on Acquisition of Agricultural Land):

- individual farm land users, who expressed their wish to purchase the land;
- farmers;
- agricultural companies which have been using the land for more than 5 successive years.

Furthermore, it is laid down in the Article 6 of the Provisional Law on Acquisition of Agricultural Land that persons who enjoy the right of priority to purchase a state owned plot of agricultural land shall be sold the plot concerned at a price not exceeding the average price of the plots of land sold in that location (land market price).

2. Conclusions

a) State owned land should be sold:

- Ensuring the right of priority to persons engaged in agricultural activity and using the agricultural land to acquire the land for agricultural purposes;
- Ensuring the right to acquire a sufficient land area in order to establish a competitive farm and develop agricultural activity;
- Preventing persons who have a goal to resell the land at a higher price from buying agricultural land in large amounts.

b) There are four aspects for using business plans:

- as a basis for a farmer in the decision making process;
- as a basis for administrative bodies in the decision making process to sell or lease state owned land seeking to realise the list of priorities,

- as a decision making tool for lease and sale of free state owned land, a measure for assessment of the development of competitive farms;
- as a basis for decisions for granting loans (agricultural credits and other finances).

Purposes of a business plan	
External	Internal
To provide grounds and receive cash loans	To justify and check a new idea
To find partners	To compare the predicted and actual results
To inform the society and international organisations about the company's activity	To estimate the funds needed for the implementation of adopted solutions
	To estimate the risk of borrowing
To provide information about the official and financial evaluation of business	To evaluate business prospects and viability

c) Farmers are using business plans for the following reasons:

- Developing own business plans will provide security to farmers;
- Business plans are necessary to provide information on the purpose and volume of funds needed within a certain time frame;
- Business plans could facilitate decision making by interested banks, investors and partners on granting loans and other desired transactions.

d) Administrative bodies use business plans for the following reasons:

- Business plans represent agricultural policies as well as problems occurring in practice;
- They may facilitate effective, sustainable and competitive farming in mid-term perspective;
- They could assist administrative bodies in choosing farms meeting the above mentioned criteria for purposes of certain aid measures.

e) Business plans could be used for purposes of sale and lease of state owned agricultural land in view of:

aa) Political aspects

Agricultural policy:

- Setting priorities with consideration of environmental aspects (organic farming) or market aspects (animal husbandry/cash crops);
- Selecting the type of a lessor (local resident, owner of real property, required skills).

Economical and regional policy: Investment aid.

Social policy: Securing or/and creating jobs.

Financial policy: Minimising the risk of failing lease and sales contracts.

bb) Practical aspects of privatisation

The decision making process for allocation of land to the best bidder in a developing land market would have to be based on a broader variety of criteria than just on the highest bid.

cc) Requirements on equal treatment

Equal opportunities should be provided for local farmers as well as farmers from other EU Member States competing for lease and sale¹ of vacant state owned agricultural land.

3. Recommendations

1. German experience has proven that business plans for long-term lease or sale of land may be an important instrument for successful implementation of structural policy, especially in developing land markets.
2. Business plans may be an efficient tool for farmers and agricultural enterprises in developing their business. Decision-making by state authorities could be facilitated in case of leasing or selling particular land parcels to suitable applicants as well as granting investment aid to farms. Business plans could be a proper tool for appropriate allocation of vacant state owned land in a developing land market.
3. It is important that business plans were uniform for all tasks in agriculture, so that:
 - administrative bodies could draw a comparison between farms and could decide future support of farms and the methods of support (financial, with lease-out of free land);
 - bureaucratic work could be reduced for the farmers (one business plan for all needs).
4. The contents of business plans has to be as minimal as possible. This is also important for reducing costs of working out business plans .
5. There should be one competent service for evaluation of plans. The evaluation has to be transparent, uniform and as simple as possible.
6. The most important point of business plans is assesment of development of competitiveness of farms.
7. Limitations on use of business plans in the process of privatisation (sale and lease) of agricultural free state owned land:
 - EU regulations on state aid should be observed;
 - Evaluation and comparison of business plans contain subjective elements;
 - Business plans have all the disadvantages, which are characteristic to plans, e.g. about the ability of a farmer, changes in the economical framework;
 - Reactions are often problematical when a farmer is deviating from the course of the business plan (main points).

¹ Equal treatment concerning sale/purchase of agricultural land has to include persons from other EU Member States starting with 1 May 2011, cf. aforementioned text in Chapter II.

VI. Measures to improve agricultural structure – financial aspects

1. EU support on the basis of business plans

After Lithuania has become a member of the EU, it is possible to reclaim European Agricultural Guidance and Guarantee Fund assets (EAGGF) budgeted for rural development.

Support by EAGGF Guarantee section is being budgeted according to Lithuanian Rural Development plan (RDP) for 2004 to 2006, based on a compensatory principle, i.e., compensation for lost income or emerging additional expenses due to certain liabilities invoked. Investment support is funded by EAGGF Guidance Section according to Lithuanian Single Programming Document (SPD), priority IV “Rural Development and Fishery”. Financial support is granted to projects that establish new methods of farming in less favourable areas as well as introduce alternative economic activities (tourism, non-agricultural trades).

Therefore, main documents for agricultural development are the Lithuanian Rural Development Plan of 2004 - 2006 and the Single Programming Document. Financial support by EU funds is granted too, however, on a condition of national contribution.

The following measures are included into ***the present RDP (Rural Development Plan)***:

- Early retirement from agriculture;
- technical assistance;
- environmental protection;
- afforestation of agricultural land;
- supporting semi-subsistence farms;
- support to complying with EU standards;
- cultivating land with a low output.

Single Programming Document (SPD) is foreseen for the following measures:

- Investment aid;
- aid for establishment of young farmers -;
- improving food processing industry and marketing;
- promoting the adaptation and development of rural areas and forest land;
- forestry development;
- development of leadership and training expenses.

Up to 2003, the Common Agricultural Policy (CAP) provided for:

- **Direct payments** dependant upon volume of output (cattle, crop);
- **Intervention purchases**;
- **Export subsidies**;
- **Guaranteed prices** for certain products (milk, cattle, sugar).

CAP reform 2003 contains the following provisions:

- Support granted is **independent** from scope and nature of production;
- Support consists of **aid to farmers** based on the scope of farmland per ha;
- **Diverting** of funds originally designated for market regulation to **rural development**;
- Implementation of standards for food safety and quality.

As a result of CAP reform, EU market prices will subsequently meet world price levels. Gradual opening of the Common Market on agricultural products is increasing competition.

Furthermore, concentration of agricultural production in most favourable regions as well as specialisation of farms is highly expected.

In Lithuania, CAP reform will be implemented between 2005 and 2009 while in the majority of Member States, necessary steps will be taken by the year 2005 or 2006. Lithuania is intending to apply a mixed support scheme until 2007.

Member States are entitled to financial aid in case of selling or leasing agricultural land. This aid will be granted to farms:

- of the size no less than 1 ha of farmland;
- in line with the requirement of EU regulations.

Member States may allocate aid to different regions or alternatively link it to the type of agricultural production. Aid to be granted will be based on former support received per ha of farmland during the period between 2000 and 2002. Aid sums designated for farms in the new Member States, agreed upon during the accession negotiations, depend on the volume of farmland per ha. Different aid grants may be allocated to separate regions.

2. State aid

a) *State aid for the acquisition of private land*

According to Government Resolution No. 889 of 8th July 2003 and the Provisional Law on Acquisition of Agricultural Land, as amended, the following interest rebates on loans obtained for the acquisition of private land with a maximum interest rate of 8 % may be granted:

- 50 % rebate for natural and legal entities involved in agriculture;
- 100 % rebate for farmers below the age of 40;
- Maximum interest rate is 8 %.

Interest rebates may be obtained according to the following conditions:

- Farms must be registered in accordance with the procedure laid down in the Law on Farms; alternatively;
- Natural persons must prove professional readiness for farming by
 - either providing suitable documents;
 - or current involvement in farming business.
- Legal entities are required to generate more than 50% of their annual income from sales of agricultural products;
- Additionally, the acquired piece of land is suitable to enlarge the land parcels in use, or could create a compact land tenure (Certificate issued by the Land Management Division).

Attention: EU regulations on state aid have to be observed (loan may have a duration of only one year, eligible for yearly extensions, cf. Communication of the Commission, OJ 1996 Nr. C 44/2).

b) State aid for the acquisition of state owned land

State aid for the acquisition of state owned land will be granted in form of:

- Accepting instalment plans with a duration of up to 15 years, provided an initial lump sum amounting to 5% of the sales price has been paid straight off;
- Pre-emption rights to the above mentioned persons and legal entities. Land evaluation is based on average prices using land value maps.

The eligibility criteria for farms or natural persons and legal entities mentioned in a) are also applicable in cases of purchasing state owned land.

3. Recommendations

Lithuanian experience shows that business plans are gaining importance during economic development, which requires financial aid to support agricultural activities.

Lithuanian banks have not been willing to extend loans for agricultural activities; this was particularly true for real property transactions. However, some banks have recently started to focus their activities on the agricultural sector. Experience has shown that this kind of specialised activity could be successful and useful for banks, farmers and agricultural enterprises even in wealthy countries. Therefore, close co-operation between banks, farms, agricultural enterprises and institutions involved in agricultural activities in Lithuania should be established as soon as possible. This would create necessary conditions for an increase of agricultural transactions in the land market. It would also improve financial conditions for investments in machinery, livestock, buildings and land in the light of increasing land prices.

In order to start providing state aid for acquisition of agricultural land the current procedure has to be revised. As to the opinion of German experts, business plans could be a reasonable basis for state aid. It should be granted only to those applicants who delivered sound arguments in favor of future successful agricultural activities.

Sale and lease of state owned land should be based on market value, derived from either public tender/auction or the opinion of a licensed expert.

Granting of interest rebates as well as acceptance of instalments instead of a lump sum including the permitted duration of instalment plans should be made compatible with European law.

VII. The system of land consolidation as part of the privatisation process

1. Background

The restitution of private ownership to land and the land reform process has been going on since the independence in 1991. As described in Chapter I the result of the land reform is in many ways agricultural structures, which are not suitable for competitive production in a globalising economy. This has led to the acknowledgment of the need of a second wave of the land reform. Land consolidation pilot projects have been implemented in the period 2000 - 2004 in co-operation between the National Land Service and the Danish Directorate for Food, Fisheries and Agro Business (DFFE).

During the land consolidation pilot projects free state owned land was privatised as part of the land consolidation planning process. In this way the pilot projects gave field experience with privatisation through land consolidation projects. The free state owned land plots scattered over the pilot project areas functioned as catalysts for improvement of the local agricultural structures (bigger farm sizes and reduction of fragmentation) and for implementation of local measures for rural development, such as afforestation, rural tourism and leisure time activities.

In January 2004 the Lithuanian Parliament adopted the Law on Land including the normative framework for land consolidation. Countrywide land consolidation with EU co-financing under the Rural Development Programme is foreseen to begin from 2005.

2. Conclusions

Land consolidation can be an important instrument in the Lithuanian land management "tool-box" and in this sense contribute to improvement of the competitiveness of Lithuanian farms. Land consolidation can also be an important instrument for implementation of different types of public projects in rural areas such as:

- Infrastructure projects (highway construction among others);
- Afforestation projects;
- Nature related and environmental projects;
- Local rural development.

It is estimated that there will be around 500.000 ha of free state owned land available after the completion of the restitution / land reform process. This land reserve will be subject to privatisation. The privatisation of agricultural land and land consolidation are related activities. Therefore, the organisation and institutional setting of the activities must be tightly co-ordinated.

While designing land consolidation projects, presence of available free state owned land in the project area is essential for the result of voluntary and negotiation based land consolidation.

3. Recommendations

1. It is recommended that privatisation of free state owned land is carried out seeking to improve agricultural structures and support the development of rural areas.
2. It is recommended to integrate professional and technical reasons of privatisation, management of free state owned land and land consolidation activities. Whether the organisational and institutional integration is to be implemented in practice and to what extent depends on the possibility to introduce uniform and integrated responsibilities on the central as well as on the regional level. In principle the three tasks could be carried out within one organisation.
3. It is recommended to develop the function of the Land Agency as a Land Fund / Land Bank with the possibility of not only selling free state owned land but also buying land from private owners in connection with public area demanding projects in rural areas and as part of an early retirement programme. Such an opportunity to buy land in advance will make the acquisition of land for projects both easier and cheaper.
4. It is recommended to privatise free state owned land also through land consolidation projects if it is found possible and rational.

VIII. Management of contracts

1. Legal background

According to legal requirements, performance of agricultural land sale and lease contracts shall be checked by contracting authorities: the County Governor controls performance of sale and lease contracts for state owned land while municipalities control lease contracts for state owned land, which has been transferred to municipalities by way of trust. This obligation was enacted under the Law on Land Reform (Art. 18 (4)) where it is laid down that the institution representing the state is obliged to control whether terms and conditions of contracts on transfer, exchange, lease and trust of state owned land have been fulfilled. In case of malfunction, the responsible authority may initiate termination of the contract based on procedures prescribed by law or, alternatively, apply other measures in order to protect rights and interests of affected parties according to applicable legal provisions. Institutions authorised by the Government are entitled to challenge contracts on transfer, exchange, lease and transfer for enjoyment of state owned land in court if contracting parties do not observe terms and conditions of the contract and if the institution acting as a state representative does not take measures to terminate these contracts.

A similar provision on management of contracts was enacted under the Government Resolution No. 236 "On Sale and Lease of State Owned Land Parcels for Agricultural Purposes (Activities)", of 15 February 2003, point 2.16, where it is laid down that the institution authorised to sell and lease state owned land (County Governor or Municipal Council) is supposed to check whether purchasers or lessees of state owned land parcels fulfilled terms and conditions stipulated under state owned land sales or lease contracts. In case of breach by a contracting party the authorities have to consider either appropriate means to prevent violations or, alternatively, initiate termination of those contracts, and, furthermore, request damages for losses incurred in accordance with procedures prescribed by law.

It should be noted that management of sales and lease contracts concerning agricultural land is of particular relevance to Lithuania since regulations of the Provisional Law on Acquisition of Agricultural Land were amended. According to Art. 3.1.1) of this Law, the buyer of state owned agricultural land, paying the sales price by instalments, may not resell the acquired property before completion of payments. Furthermore, Art. 5.6. of the same Law stipulates that persons who exercised pre-emption rights when acquiring state owned agricultural land may not resell their property within five years from closing the initial sales contract. The same period shall apply to those persons when they are intending to change land use. In case these conditions are violated, the state would be entitled to repurchase the land.

The validation and development of the Land Information System of the Republic of Lithuania (LIS) has just started. According to the Law on Land of the Republic of Lithuania, Art. 34, the purpose of LIS is to pool and update information about the Land Fund of the Republic of Lithuania, composition, area and price of land holdings, qualitative and quantitative characteristics of land resources, land use conditions, characteristics of other real estate, which has an effect on land use based on the data of the Real Estate Cadastre, Real Estate Register, Forest Cadastre, Cadastre of Protected Areas, as well as territory planning, environment protection, monument protection, land reform, soil analysis data and other research data.

The management of LIS includes the following activities:

1. Investigation of land use condition;
2. research of the qualitative and quantitative characteristics of land resources;
3. research of land value;
4. drafting of mapping material, which describes natural and economic characteristics of land;
5. administration of data of the Land Information System on the basis of geo-referenced data;
6. preparation of the cumulative data about the use of the territory of the Republic of Lithuania and administrative units by the groups of land users and types of land;
7. collection, processing, storing and dissemination of information on land.

It is laid down in the Law on Land (art. 34(3)) that the Regulations of the Land Information System approved by the Government shall establish the detailed contents of the Land Information System, recording and administration of data.

In order to enforce the Law on Land a draft of LIS regulations is currently under elaboration, where LIS is seen as an integral system comprising databases of soil, land use, land reclamation and specific conditions for land use based on the GIS principles.

The plan is to provide LIS data for a certain fee with the exception of cases prescribed by Law to state and municipal institutions and offices, natural and legal persons for the purposes of planning natural resources and territories; shaping and implementation of the national policy on the use of land resources; national planning of land improvement and protection measures; elaboration of drafts and schemes for land management, land reclamation, alternative use of low productivity and less favoured land, crop rotation; planning of land management measures; adjusting cadastre data of land parcels; presenting information on land in statistical and other official publications; state control of land use.

The plan is to update LIS data when new research and project data are received; when data in cadastre and registers are changed; when the basic cartographic material is updated; when LIS database specifications or technical regulations are changed.

2. Conclusions

BVVG, which is in charge for privatisation of state owned agricultural land, uses several types of sales contracts based on the German Civil Code as well as on special laws designed for the New Bundesländer:

- Regular sales contracts, i.e., market prices have to be paid for the transfer of real estate property (either agricultural land or land serving commercial or residential purposes);
- Special sales contracts for transfer of agricultural and forestal land, i.e., sales prices range 35% below the market price (containing state aid);
- Special sales contracts for merger of separate ownership in construction and land located underneath, i.e., sales prices for land amount to 50% of the market price.

In case of transactions containing state aid, special sales contracts used by BVVG contain certain provisions in order to prevent speculation as required by law:

- Prohibition to resell the acquired land within a period of 20 years, which is subject to registration in the public register (Grundbuch). In case of violation, BVVG may terminate the contract or impose a penalty, e.g., 50 per cent of the balance between the purchase and resale price, if the land has been resold within six to ten years from the date of closing; the penalty, however, will increase up to 80 - 100 per cent, if the land parcel was sold within five years from the date of closing the contract with BVVG. Inspection of this condition is carried out every second year. In complicated cases, tax advisers and licensed experts are participating in necessary research activities.
- Prohibition to change the specific purpose of land use for a period of 20 years as well. Therefore, the buyer is obliged to issue reports to BVVG within certain time ranges. Fulfilment of this condition is checked on a regular basis.

On the basis of regular sales contracts BVVG may oblige buyers to financially engage in certain investments (buildings, infrastructure) and/or to create/maintain a specified number of jobs.

If the buyer does not meet terms and conditions of any sales contract the following procedure will apply:

- 1) An evaluation of reasons for breaching the contract is made. If BVVG deems the reasons for not fulfilling the terms and conditions of the contract as being sound the deadline for meeting the contract obligations may be extended by mutual agreement;
- 2) In the absence of any sound reasons for breaching the contract, BVVG may apply the following measures:
 - Impose penalties (a certain percentage of investments stipulated in the contract; monthly payments as compensation for jobs not being created);
 - Terminate the contract.

In 1990 a common real estate information system COLIDO existed in GDR, the management of which was taken over by BVVG. On this basis BVVG created its Land Information System (BI). With the help of this system BVVG made an inventory of 1.9 million land parcels, which were transferred to BVVG to manage. When making the inventory it was found out that 700 thousand of the transferred land parcels belonged to BVVG while there were several applicants for the rest of the parcels. The 700 thousand land parcels had to be registered in the Land Book by BVVG and documents on the ownership rights to this land had to be received.

Ownership rights to real estate in Germany are registered in the Land Book. The Land Book is administered by local courts. This is a public register, which belongs to the Ministry of the Interior. Whereas, the Land Cadastre is administered by county or regional Cadastre units of Federal Lands, which are subordinated to the Ministry of the Interior. The Land Cadastre information is available for public for a certain fee if justification is provided that the legal or natural person is entitled to access this information.

The Land Information System (BI) pools information about land parcels: land parcel number, way of use, total area, land holding areas, user, etc. Search for information about a certain land parcel in BI is performed by entering the number of the land parcel, name of the Federal Land and name of the Municipality (which may have several Land Books).

In order to ensure effective management, maintenance and administration of such a big number of land parcels it was necessary to organise the Land Information System based on the GIS principles. Formulation of queries in GIS allows identifying the spatial position of each parcel: its form, location, easement and land parcel attributes (number, area, land use conditions, etc.)

BVVG-GIS development was started in 1992 by consolidating the database of forest parcels (FORGIS), database of land resources (BEWEGIS), digital maps of the Land Register (BOGIS) and the database of agricultural land (LAGIS).

Geo-data used in BVVG-GIS:

1. spatial basic data:

- vector data – real estate map to the scale of 1:1000, parcel boundaries, boundaries of the administrative division of the territory, infrastructure, etc.;
- raster data– topographic map to the scale of 1:10000, topographic map to the scale of 1:200000; ortho imagery, cadastre plans, etc.

2. spatial thematic data: special conditions, development plans, polluted territories, land value maps, protected territories.

BVVG buys data about land parcels from Cadastre units of Federal Lands, processes them, produces the layer of land areas for BVVG-GIS by using the digital map of the Land Register. Also data from different plans are digitised and used as supplementary material. A uniform procedure for the delivery of Land Cadastre data has not been established in Germany because there is no integrated Land Cadastre IT System (Land Cadastre is administered by County or Regional Units of Federal Lands) and geodesy measurements were not made for all land parcels. BVVG-GIS has been accomplished by 50 per cent (Mecklenburg – West Pomerania Land – 26 per cent; Brandenburg Land – 45 per cent; Saxony-Anhalt Land – 100 per cent, Turingia Land – 100 per cent, Saxony Land – 44 per cent). The plan is to accomplish the BVVG-GIS by 2007.

The BVVG-GIS data layer is not subject to dissemination to users because this is forbidden under German Law.

Real Estate Management Unit of BVVG is responsible for the administration of BVVG-GIS. Around 10-15 employees work with the system. The company has its branches in federal lands where data from BVVG-GIS are sent by e-mail or delivered on electronic media. BVVG branches enter updated data and then send them in the same way to the central BVVG-GIS, where the employees enter them into the system. The technical background of BVVG –GIS is ArcView software (500 licences).

3. Recommendations

In order to ensure performance of agricultural land sales contracts, an effective control mechanism has to be installed. County Governors and Municipal Councils acting as state representatives when selling state owned agricultural land should

have sufficient funds and human resources in order to manage sales and lease contracts of agricultural land in an efficient and transparent way. The privatisation of free state owned land would be efficient only if up-to-date technical capacities (hardware and software), sufficient funds and qualified staff are available, if LIS data are used and supplied to users in a rational way.

6. Summary – recommendations of the working group

1. As a result of the land reform, agricultural structures in Lithuanian rural areas are determined by very small family and household farms. To compete successfully within the Common Market economic structures within the Lithuanian agricultural sector should be consolidated and farm holdings be enlarged. Therefore, it is necessary to create most favourable conditions (both legal and economical) for successful farming and other rural economy activities to secure the long-term disposal and acquire (purchase or lease) additional farmland on the private land market as well as buy state owned agricultural land.
2. To support the functioning of the agricultural land market and for the specific use of state owned agricultural land in this market the free plots have to be identified and registrated. As far as this has not been done, yet, state-owned land parcels should be subject to transitory regulations, like taking commonly used pathways and waterbodies as a basis, researching “traditional boundaries” by contacting owners and users of adjacent land parcels, forming land parcels according to GPS-determined measuring points (satellite system) and registering preliminary GPS measuring points that form state-owned land parcels.
3. A deadline for the right to choose the site of restitution is highly desirable since only after such a deadline a reliable inventory of vacant state owned agricultural land may be set up.
4. For the future privatisation process of free state owned agricultural land it is already determined that it should be privatised in line with the restitution of former ownership according to the land reform land management plans.
5. The German experts recommend introduce a phase of leasing free state owned land before the sales process is implemented at a large scale. The policy should include the lease-out of agricultural state owned land taking into account the priorities of the structural policy of the area. The policy of intermediary lease of agricultural land and priority of purchase by investors should, as far as jobs and investment are guaranteed, be pursued. This would serve the following purposes:
 - Consolidation of emerging and existing agricultural farms (stabilisation of enterprises, saving liquidity, reshaping the agricultural structure);
 - Securing the agricultural use until the restitution is finalised (the change of the place of restitution is the main obstacle in the whole reform process);
 - Enabling a thorough process of territorial and regional planning;
 - Considering the development on the real estate market (it is anticipated that the value of agricultural land will raise);
 - Using the potential of higher revenues for public purposes (not to privatise the future value gains).
6. Laws and regulations on privatisation of agricultural land should be subject to review according to EC rules, political goals and constitutional requirements. Main topics are:

- State aid;
- Basic freedoms, prohibition to discriminate and EC competition rules;
- Rule of law (constitutional rights, division of powers, rule of proportionality, competition rules).

7. Legal recommendations may be outlined as follows:

- Establishing transparent bidding procedures and deciding rules in awarding leasing and selling contracts; thereby guaranteeing equal treatment of bidders;
- Identifying market prices by public auction/tender or by the opinion of an independent, licensed expert in order to avoid suspicion of affording an unnotified state aid;
- Offering incentives instead of putting restrictions on use and disposal of privately owned land to reach the preferred goals;
- Developing regulations to introduce effective control mechanisms on land sales and lease agreements;
- Leaving use and disposal of private land to the discretion of contracting parties;
- Considering the suggestion of the German experts, to enact separate laws (e.g., on privatisation, allocation of land to state and municipalities, land administration, land management, settlement of disputes) and to issue implementation rules for each of them, because the implementation of the complex Law on Land might be too complicated.

8. German experience has proven that business plans for long-term lease or sale of land may be an important instrument for successful implementation of structural policy, particularly for developing land markets. Business plans may assist in selling state owned land for agricultural purpose to the persons, involved in farming, thereby using land for agricultural purposes.

9. Business plans may be an efficient tool for farmers and agricultural enterprises developing their business. Decision making by state authorities could be facilitated when leasing or selling particular land parcels to suitable applicants as well as granting investment aid to farms. Business plans are a good basis for decisions regarding the allocation of free state owned land until the land market has been developed.

10. It would be advisable to provide that the strategic goals of the privatisation process are executed uniformly throughout Lithuania. The current system consisting of 10 counties and 60 municipalities complicates the uniform approach and should, therefore, be altered.

Following the privatising experience in Germany the recommendation to prefer a centralised model is suggested for future considerations. This could provide efficiency and transparency for the process of privatisation including effective control mechanisms. If a decentralised model is preferred a re-arrangement of the existing system seems necessary to minimise the current disadvantages and especially to introduce a proper and effective monitoring and supervision system by a central institution.

11. Institutions participating in privatisation procedures should be enabled to work efficiently and transparently. Interests of Municipalities and Counties in the privatisation process should be granted through consulting rights. In addition, municipalities should be responsible for regional territorial planning as the primary condition for development of land management plans where land parcels are formed .
12. Privatisation of agricultural land and land consolidation are related topics. Land consolidation projects can stimulate privatisation of agricultural land while privatisation of agricultural land may be carried out during the execution of a land consolidation projects. Both privatisation of agricultural land and land consolidation could be tools for improving the development of the agricultural sector and rural areas. Land consolidation is an important and effective tool to support the privatisation process, however, it cannot replace privatisation.
13. Co-ordination and integration of land consolidation and privatisation of agricultural land as well as territorial planning are of the essence. Vacant agricultural state owned land should not be sold before public needs for the particular area have been identified and laid down in territorial planning documents. Planning procedures should serve the society instead of individual interests. Until the final use of land is clarified the state owned agricultural land can be leased out as an alternative.
14. It is recommended that privatisation of vacant state owned land should be implemented in such a way as to improve agricultural structures and support development of rural areas. The organisational and institutional setting for privatisation and management of vacant state owned land as well as land consolidation should be integrated.