

## Land fragmentation and Land Banking in Galicia

### *Land fragmentation in Galicia: stage, past policies and the approach of the new Land Bank*

Galicia is placed in the northwest part of the Iberian Peninsula. Its surface is 29.575 km<sup>2</sup>, representing 6 % of the total Spanish surface.

In general climate is mild, with light temperature variations and abundant rainfalls.

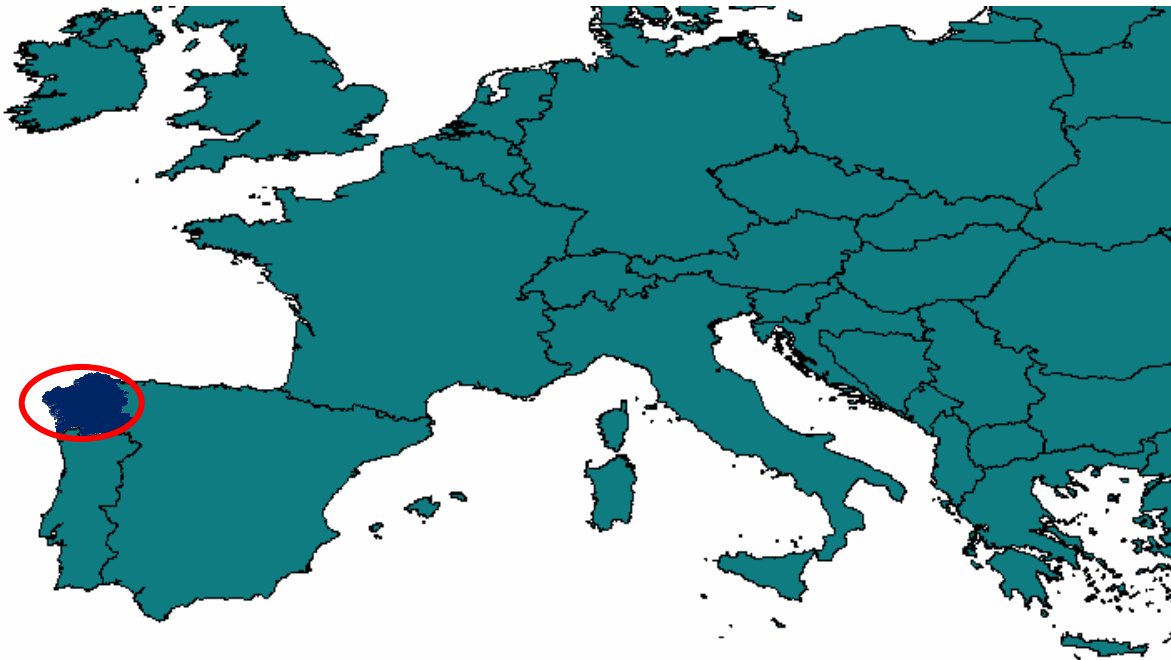
In Galician topography there is a combination of small mountains with deep valleys and flat lands

Population is about 2,800.000 people, with a density of 93 inhab/km<sup>2</sup>. There is great dispersion resulting in 1.1 population entities/km<sup>2</sup> and 26.610 villages. Density is not homogeneous. More than one third of the Galician area shows a population density per parish lower than 20 persons/km<sup>2</sup> and 64% of the population is concentrated in 10 % of the territory.

About 90 % of the Galician territory lost population between 1960 and 1991, although the total has remained more or less estable (INE, 1993, 2001, 2002).

Economical activities in inland rural areas are mainly based in farming, agriculture and forestry activities, although there are strong differences among the 315 municipalities.

The afforested area accounts for 32% of the total area, and the area devoted to agriculture accounts for 25 % of the total area in Galicia. This is a very low percentage comparing with another countries or regions: Spain with 50%, 40% in EU-15 or 41% in EU-25 (Agriculture Commission, 2004)<sup>1</sup>. Another 33% is occupied by scrublands, most of them result of abandon processes of agriculture and forestry surfaces (or after forest fires).



### ***Land tenure and land structure***

Property in Galicia is highly fragmented and most of the holdings are private (97%). There is a dual structure of land tenure. On the one hand, a special type of private common land is present, called “Monte Vecinal en Mano Común” (MVMC). There are more than 660.000 ha in the country catalogued as MVMC, that amounts to 22% of Galician surface.

On the other hand there is the individual private property. In this case, a high population dispersion with a large number of scattered settlements, a dominant traditional agricultural economy and a historical tradition of property inheritance by sub-division within families (often with many heirs), have produced a high degree of land fragmentation.

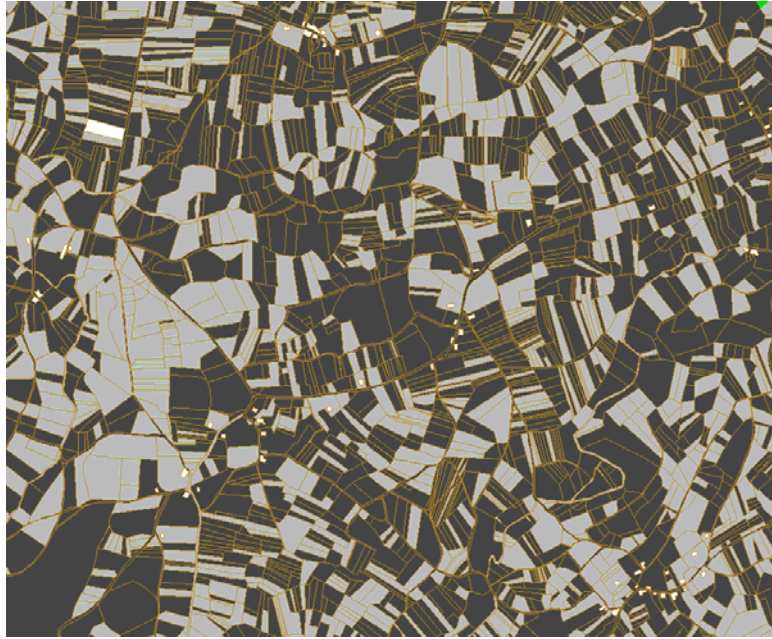
When dealing with land fragmentation distinct situations appear. In this sense, a good approach has been provided by van Dijk (2003). He distinguishes as three main possibilities regarding land fragmentation. The first, ownership fragmentation, is the great number of land owners and/or the little surface of land they own. There are in Galicia more than 1.6 million of rural land holders, an amount equivalent to 60% of inhabitants in the country. This represents 1.7 ha per owner.

The second involves land use fragmentation or the small size of land-use units, that takes into account the number of users (i.e. farms) that may own or not all or part of the land that they manage. Indeed, high ownership fragmentation could be mitigated at use level with good performance of tenancy agreements (few farmers managing land owned by a larger number of owners). But the fact in Galicia is that, paradoxically, besides processes of land abandon, the average size of trade farms remains very little, about 10 ha in 2001 (INE) with 25 parcels per farm. And it has to be noted that the mean value of farm size does not reflect the fact that the family unit may commonly join the holdings of both spouses, retired parents, and consanguineous relatives who live far from the village. So, an important figure to take into account is the gap between owners and “direct users” (farmers): 1.6 million vs. 100.000.

Third, the internal fragmentation refers to the physical structure of the parcels when these are small. Normally it is accompanied by an uneconomic shape and significant grade of dispersion or distance among all the parcels belonging to one owner. In average, the 1.7 ha per owner are split in 7.7 parcels what means a plot medium size of 0.23 ha. These values suggest that, in addition to land fragmentation (property fragmentation and “parcels” fragmentation, apart from “use” fragmentation, with small farms), there is a high level of land dispersion.

### ***Obstacles for land mobility***

During last decades a strong depopulation process has appeared in most of Galician rural areas. Those people who leave rural areas work in agriculture, so a large number of farms stopped their activity. Now, most of those owners (or their heirs) don't live in rural areas and there is an important grade of absenteeism.



**Figure 1. Parcel map of a rural municipality. Black parcels: owner living in the same municipality. Grey parcels: owner living in other municipality.**

There hasn't been land mobility so the parcels left by the former farmers were not taken over by other farmers. The land is often neither sold nor rented afterwards.

Three phenomena strongly influenced the associated land use change.

Afforestation with pine and eucalyptus has had a strong push during last decades (high during 90s) as a land use option. This fact decreased land markets activity, since a lot of the owners that have afforested their land were retired farmers (or heirs) that preferred that solution instead of renting or selling their land to other farmers.

In other cases, the owners simply let it fall. Land property is not an easily transferred asset owing to many reasons; for instance it is experienced as guarantee property for future times. Traditionally, as it happens in most of European regions, the alternative besides abandonment can be renting the land to another farmer but this doesn't happen in Galicia with the same intensity. Hence, 87% of farm surface is owned by the farmer, which means that tenancy rates in Galicia are very low. Due to different reasons, owners are reluctant to rent their land for fear of losing rights over their property, they don't trust in recovering the parcel in good conditions or they may have problems getting the rent. In the other hand, farmers or future farmers have difficulties in finding land with the adequate characteristics because of the difficulties to obtain information regarding the availability of parcels (where, who is the owner), also partly caused by fragmentation, abandonment and absenteeism what increases information costs. Besides, because of their small dimension, farms often don't have enough financial capacity to purchase land. Sometimes they can not obtain certainty about lease-term what hinders their willingness to rent.

Moreover, the rationality of traditional high dispersion of population (trying to avoid competence in land use for agriculture and forestry) has been followed the last two decades by new sprawl phenomenon, with special importance of second residences. New buildings have been appearing everywhere without rationality (new buildings instead of rehabilitating

the old ones, something that now is changing). The lack of planning and a very fragmented property has triggered both situations.

### ***Policies dealing with land fragmentation***

Since the beginning of the 50s LC has been almost unique public measure for dealing with land fragmentation in Galicia through the enactment of successive laws from 1952 to 2001. The current version of Galician Land Consolidation Act (2001) was the first tentative to incorporate an integrated=comprehensive approach.

At present, land consolidation in Galicia affects 1/5 of its total area and more than 200,000 landowners. The table below shows basic issues:

NUMBER OF LAND CONSOLIDATION PROJECTS (1952-2001)	1129
AREA/PROJECT	552 ha
Number of plots (before land consolidation) (average)	4358
Number of plots (after land consolidation) (average)	699
Number of owners (before <u>and</u> after!!) (average)	389
Average size per parcel (before LC)	0.139 ha
Average size per parcel (after LC)	0.708 ha
Number of parcels per owner (before LC)	11.6
Number of parcels per owner (after LC)	1.9
Time for the procedure (average)	7.5 years

Despite its approach focused on agriculture, during these last years performance of LC has dealt with some drawbacks that hindered its results regarding farm structure. The main was the big gap between owners and farmers and the very different kind of personal aims (regarding their lands) they have and the very low land mobility. This provoked that internal fragmentation was diminished but not ownership and land use fragmentation. In this way, beneficial effects were strongly debilitated.

### ***New policy options***

Consolidation of parcels is not sufficient for very small farms; to achieve the proper management needs to make them bigger (so reducing land use fragmentation). In this sense, two new instruments are being developed by Galician government to deal with land use fragmentation: the Land Bank and the Forest Management Units.

The Forest Management Units aim to establish a common management of parcels owned by different people. They are designed to deal with many small private properties and to set up, compulsorily under certain circumstances, a common management. That would be the responsibility of a new association of owners through its executive board. It have legal foundations and are specially targeted to forest areas, which are important in terms of surface, and environmental sensitive in terms of fire risk.

We'll see the Land Bank in detail in next section. It was created by the Act 7/2007 on administrative and tax measures for the conservation of the utilised agricultural area and on

the Land Bank of Galicia, and aims to reduce land abandonment and enlarging farms by promoting the leasing of farmland through a new public body, the *Bantegal*.

Both instruments have in common that they focus on land use level. Changing ownership structure is not the goal by the moment but looking for new tenure arrangements to mitigate the effects it has on land use fragmentation at agriculture and forestry levels.

## **THE LAND BANK OF GALICIA**

In order to promote the mobilization and utilization of agricultural areas in Galicia, the Galician government developed in 2007 the Act 7/2007 on administrative and tax measures for the conservation of the utilised agricultural area and on the Land Bank of Galicia.

The legislation developed is based on a “carrot and stick” policy in which there are described two different kind of measures:

1. Measures related to the creation of the **Land Bank of Galicia**, its governing body and the procedures by which the plots of land can be transferred to and from the Land Bank.
2. Measures related to a **penalty regime** for those plots of land which are under conditions of abandonment.

### **1. The Land Bank of Galicia**

According to the legislation, the Land Bank of Galicia is an instrument of the government in which rural plots of land are listed in order to be mobilized (the term “mobilized” is used in this law in the sense of promoting the agricultural use of the land).

The way of mobilization was analyzed by the government when the law was developed. Mainly, there were studied two possibilities to operate with: by a buying and selling model

(traditional land banking instrument) or by a leasing model. Some of the aspects considered in each model were:

- **Buying and selling model**

1. Land is considered by the population as an important resource in case of a crisis. Land is an element of wealth.
2. Land prizes in Galicia are extremely high, even if land is uncultivated or abandoned,
3. There is no land market tradition.
4. Mobilizing land through a buying and selling model implies to have a lot of capital immobilized.

- **Leasing model**

1. There are fears of losing the property in case of being leased, of delays or defaults of payment, damages in the plots made by the lessee.
2. Although there is also no land market tradition, mobilizing land through leasing contracts is less expensive than through buying and selling models.

Finally, the solution supported was to promote leasing contracts, although the legislation opens also the possibilities of mobilizing the land under buying and selling models. For the operation of the Land Bank, two tools were also developed:

- Bantegal, which is a public company in charge of the management of the Land Bank. According to the legislation, the Bantegal depends on the government; it is not an independent body.
- Commission of Technical Prices and Valuation, in which there are representatives of different entities of Galicia (agrarian associations and unions, political responsible of the measures of land bank, cadastre ...) and is in charge of establishing the reference prices for all the operations made by Bantegal.

Bantegal will work then as a mediator between landowners and farmers in order to get the mobilization of land, promoting leasing contracts between them and giving guarantees to the process as:

- Giving guarantees to the landowner of not losing the ownership as well as recovering the property in normal conditions for their use after the leasing contract is ended.
- Giving guarantees to the landowner about being paid according to the leasing contract.
- Giving guarantees to the farmer about having a known and secured rent period

Other important aspect of Land Bank operation is the reduction of transaction costs. The so-called information costs increase the difficulties that farmers or future farmers have in finding land with the characteristics required and, in the other hand, impede the owners to find an interested tenant for their land. As we saw land fragmentation is very high in Galicia and that makes information costs increase very much. With so many landowners and an important proportion of them living far from their properties, the contact between farmers potentially interested on renting or buying land and landowners willing to let out or sell their land becomes very difficult. In order to facilitate the contact among owners who are not using their land and farmers that are willing to extend their farm a new GIS-Web tool (called SITEGAL) has been developed to support the Land Bank operation, available

since november 2007 ([www.bantegal.com/sitegal](http://www.bantegal.com/sitegal)). This tool is also conceived as promoting e-land governance.

## **2. The penalty regime**

As a measure to avoid the abandonment of the agricultural areas, as well as to promote the operation of the Land Bank, the Act 7/2007 established a penalty regime in which the administration can sanction those plots of land which are abandoned. The legislation establishes also the conditions by which the plots of land can be considered as abandoned.

If the landowners don't want to be sanctioned, they have several possibilities to avoid it as: clearing the plot, transferring through any legal contract to the Land Bank of Galicia. This is also a way of promoting the Land Bank of Galicia: in case of having a plot of land declared as abandoned, the landowners will not be sanctioned if they let the possibility that other farmers cultivate their land through transferring their plot to the Land Bank.

This penalty regime will be only applicable in what the law defines as Areas of Special Agricultural Interest, which consisted in those plots of land where a final agreement on land consolidation has been reached after 30 December 1992 as well as those areas that a virtue of a decree in considered as such by the Galician government.

### **Operation of the Land Bank of Galicia**

So according to the legislation, the Land Bank of Galicia will consist in the following kind of plots that will be managed by Bantegal.

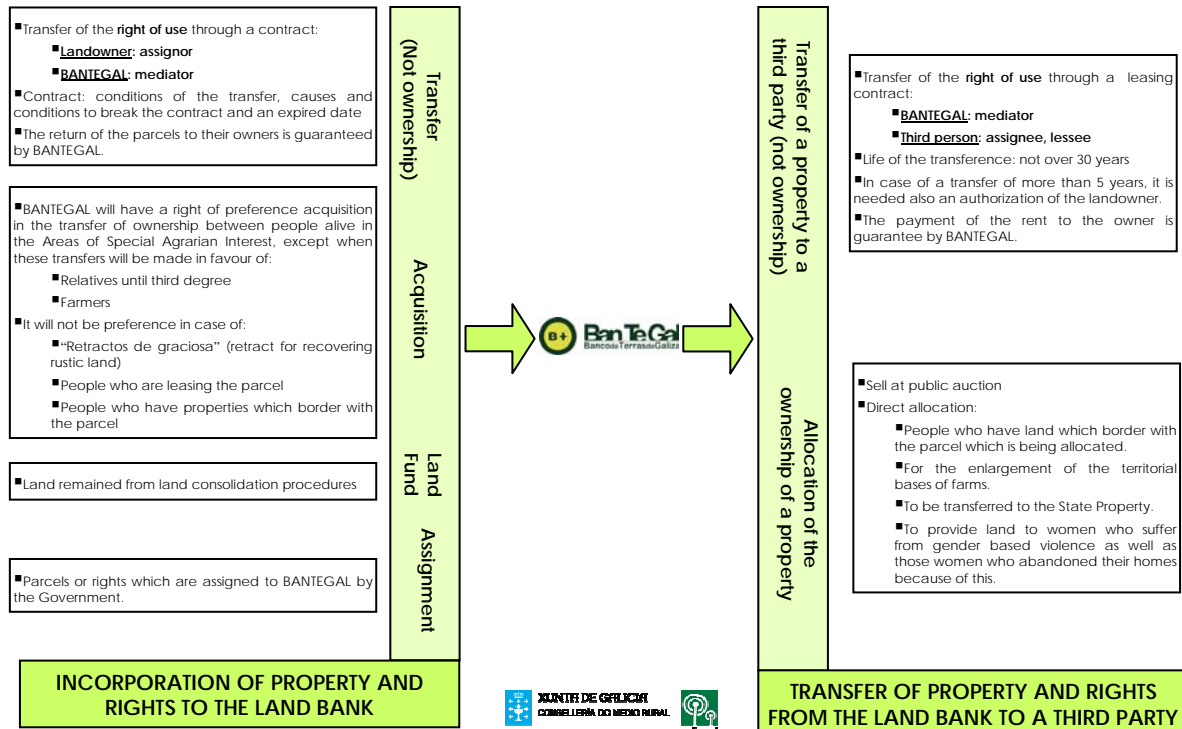
- a) Land Funds and land that was not allocated as substitute lots once a year has lapsed from the date in which the consolidation agreement became final, except when such land has other uses.
- b) The rural land purchased by the company Bantegal in the exercise of its right of preference acquisition as regulated in the law.
- c) The plots of land or the rights thereof that are assigned to Bantegal.
- d) The rural property or rights that the Autonomous Community assigns to it pursuant to the public property regulations in force.
- e) Rural land or farms or the rights transferred for their use and utilization by any public or private entity.
- f) The plots of land transferred to Bantegal by their owners .
  - a) Land Funds created during LC projects after LC is concluded
  - b) The rural land purchased by the company Bantegal in the exercise of its right of preference acquisition as regulated in the law.
  - c) Plots of land transferred to Bantegal by their owners (whatever it is public entities, private persons...)

The legislation establishes also the uses for what these plots can be utilised as:

- 1. Extension of the territorial basis of existing farms.
- 2. First activity of young farmers, especially in case of women.
- 3. Establishment of new settlements, particularly in areas that are seriously affected by aging and rural exodus.
- 4. Establishment of fields for agrarian research and experimentation by the government or by either non-profit private or public entities that so they request.

5. Incorporation as public property by reasons of environmental suitability following a declaration as such by the relevant body with jurisdiction on environmental issues or by other reasons of specific social relevance.
6. Promoting the availability of land for female farmers who suffer from gender-based violence and who, as a consequence of it, have been forced to abandon their home and land. Bantegal shall give priority to these applications for access to land.

The procedure of operating of the Land Bank and Bantegal is outlined in the following table:



The main way of working of the Land Bank will be trough promoting leasing contracts.

- Landowners shall assign their plots of land to Bantegal signing a legal contract with it. In this contract the landowner compromises to assign the plot in order to be rented by Bantegal to a third party for 5 years. Bantegal compromises to give guarantees about the payment and the conditions of the plot once the plot is leased.
- With this contract signed, Bantegal may lease the plots to a third party; in this case a leasing contract will be signed between Bantegal and the third party by a period of 5 years.

Bantegal shall work then as a mediator between both procedures.

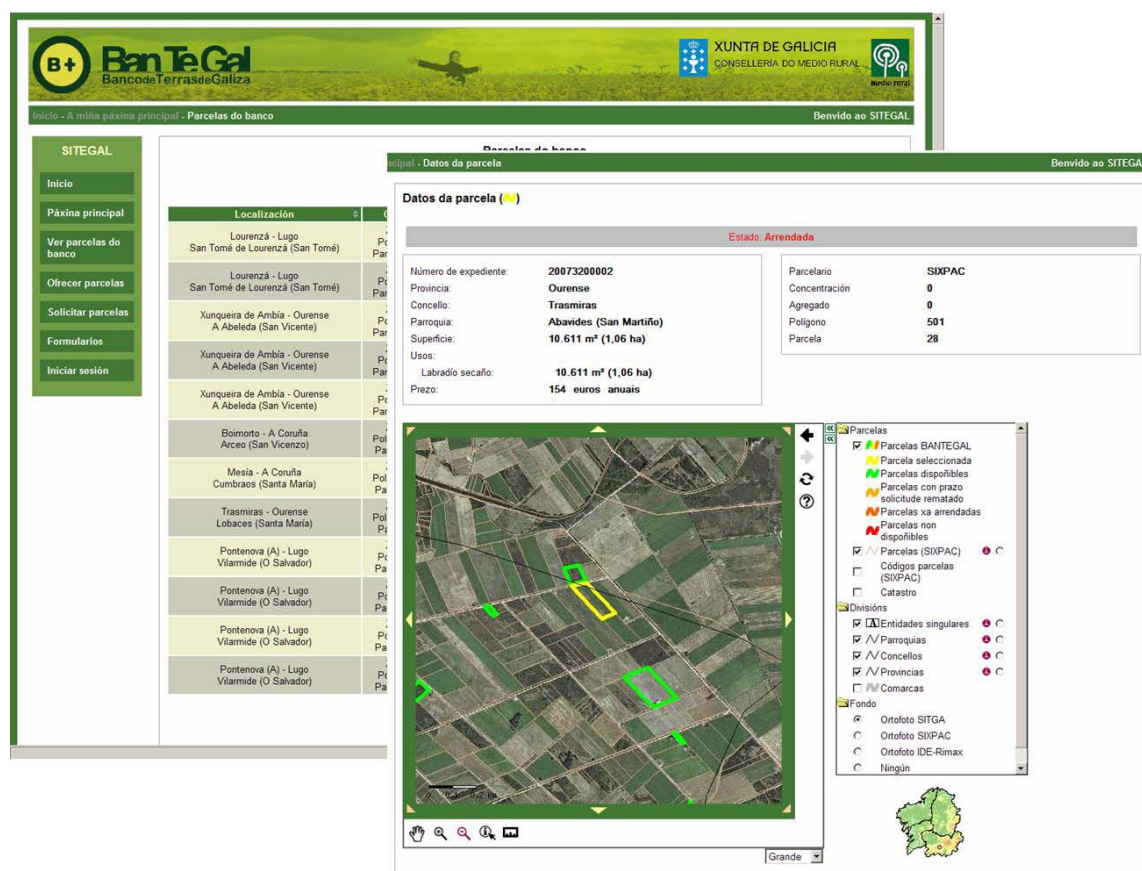
The SITEGAL: Land Information System of Galicia ([www.bantegal.com/sitegal](http://www.bantegal.com/sitegal))

The resultant application consists of a both public and private access web site for the transfer of rural properties and functioning of the Galician Land Bank so integrates E-Government functions (e-land administration) and information management functions.



Thus, the objectives are twofold. The first part attempts to facilitate communication between all users (owners, farmers) and the Land Bank through web services. The second pursues the management of both alphanumeric and geographic data, in order to support all administrative procedure of the Land Bank operation.

Through public part any person can offer, previous login, its parcels to the Land Bank, as well as search among all available parcels held by it and apply for renting of those which is interested in. The Land Bank staff, in the other hand, can manage all applications and related information from owners and farmers (offers and demands) as well as other administrative tasks related to the bureaucratic procedure. It is totally developed in free software platform.



### Comparison to traditional land banks

Although different instruments of land banks can be found, all of them can be considered as having the same principle of operation: an in-flow of properties, an intermediate management and out-flow of properties.

In the traditional land banks the in-flow was based mainly on an acquisition of land while the out-flow was based both on acquisition and leasing procedures or similar. However, there can be developed as many instruments as variables can be introduced:

#### **1. According to the use of the land transferred**

Traditionally, land bank instruments were related to agricultural areas and uses mainly associated with land consolidation projects, as a way to get the enlargement of farms.

Lately, although sometimes also related to land consolidation projects, land banks were also used for environment, social and other uses different from agriculture, including urban uses.

In the case of Galicia, the Land Bank is focused on rural areas and agricultural land is the main target. Even so, according to the law, also environmental and recreational functions may be pursued by its operations.

## **2. According to the actors involved in the land bank**

In relation to this, land banks can imply the work of different actors, public or private. Different combinations can be also made, it can be all regulated in an only organisation, as Galician land bank does, or can be formed by different actors that participate in the foundation of the land bank.

In case the actors are private, the State can't influence in the transference of the properties. However, Galician land bank is understood as a mediator between landowners and final users. Both of them can be either public or private.

## **3. According to the procedures by which properties are transferred**

The traditional land banks have into account only acquisition for the in-flow of properties to the land bank (sometimes with pre-emption rights recognised), while for the disposal are considered also: sales at market prices, auctions, direct distribution, leasing, long term leasing,... or other mechanisms.

Land Bank of Galicia works mainly through “assignments” between the landowner, the intermediate manager: Bantegal, and the final “user” of the land. So it operates with the exchange of the rights to use the plots and not their ownership as traditional land banks do. In the case of Galician land bank, two assignments are made:

- An assignment between Bantegal and the landowner: an agency contract.
- And assignment between Bantegal and the final user: leasing contract

However, the land bank of Galicia, according to the legislation developed, could also operate through mechanisms of exchanging ownership. In fact, it has pre-emption rights in those areas designated as Areas of Special Agricultural Interest.

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