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Eesti Maaülikool

Estonian University of Life Sciences

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

11th International **LANDNET** workshop

LAND CONSOLIDATION

as an essential instrument

for the implementation of large-scale infrastructure and sustainable land use

– the European context –

(part B)

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Tallinn, 27th of November 2018

Legal background:
Constitutionally guaranteeing real property and its limitation

In the very most European countries is constitutionally regulated (by more or less the same formulation):

- 1. The right on property (real property included) is guaranteed; it shall serve to the public wealth.
- 2. Content and extent (of the right on private property) are determined by law.
- 3. Expropriation is permitted only in case of urgent public needs, and only on the base of a law, that allows expropriation to the public measure as such, and which regulates a full and fair (monetary) compensation.

Legal background:
Constitutionally guaranteeing real property and its limitation

That means regarding
land consolidation:

The state may intervene on real property
(f.e. by a re-design of parcels),

- if the purpose of the measure is legally permitted

and

- if the property right remains untouched in its essence

(i.e.: the use of the right remains of predominantly private benefit, as merely shape and location is changed)

Apart from this it is (in general terms) essentially:

- The measure to be applied has to be
  - adequate (angemessen)

  and
  - commensurate (verhältnismäßig)

Assessing cascade

regarding the land consolidation tool to be applied

1. Is the full acquisition of needed land achievable

- **by free-hand purchase?** If Yes ✓ No
- **by voluntary land consolidation?** If Yes ✓ No
- **by land consolidation in case of compulsory land acquisition? -"Unternehmensflurbereinigung"-** **If Yes ✓ No**
- **expropriation**

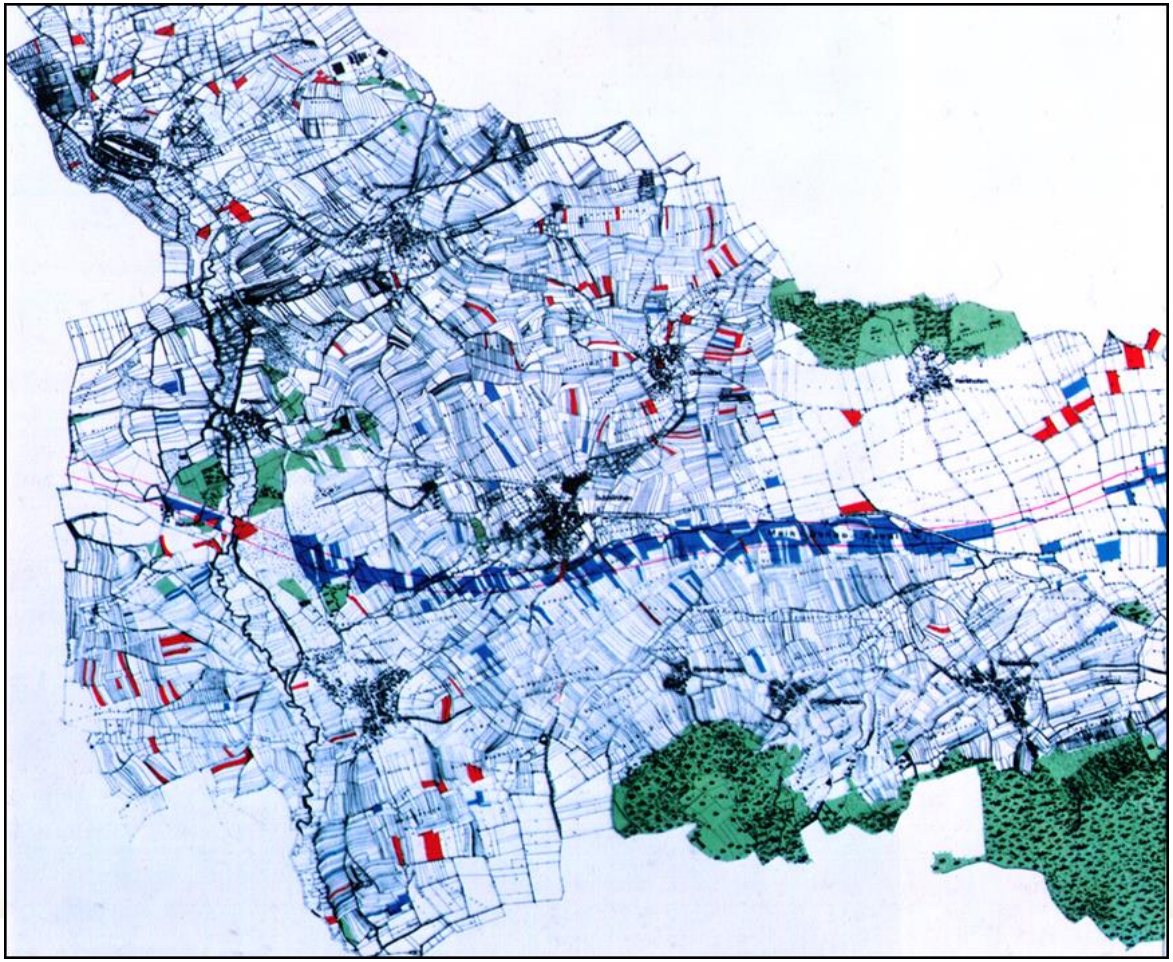
Assessing cascade

regading the land consolidation tool to be applied

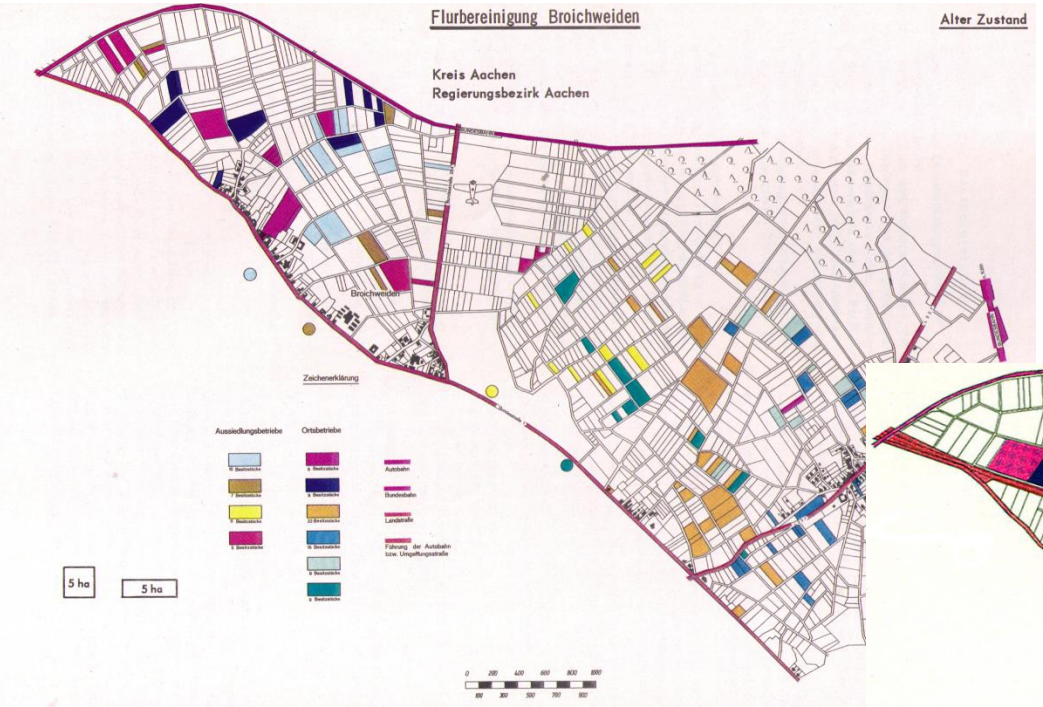
2. Is the adjustment of field structure and rural infrastructure achieable

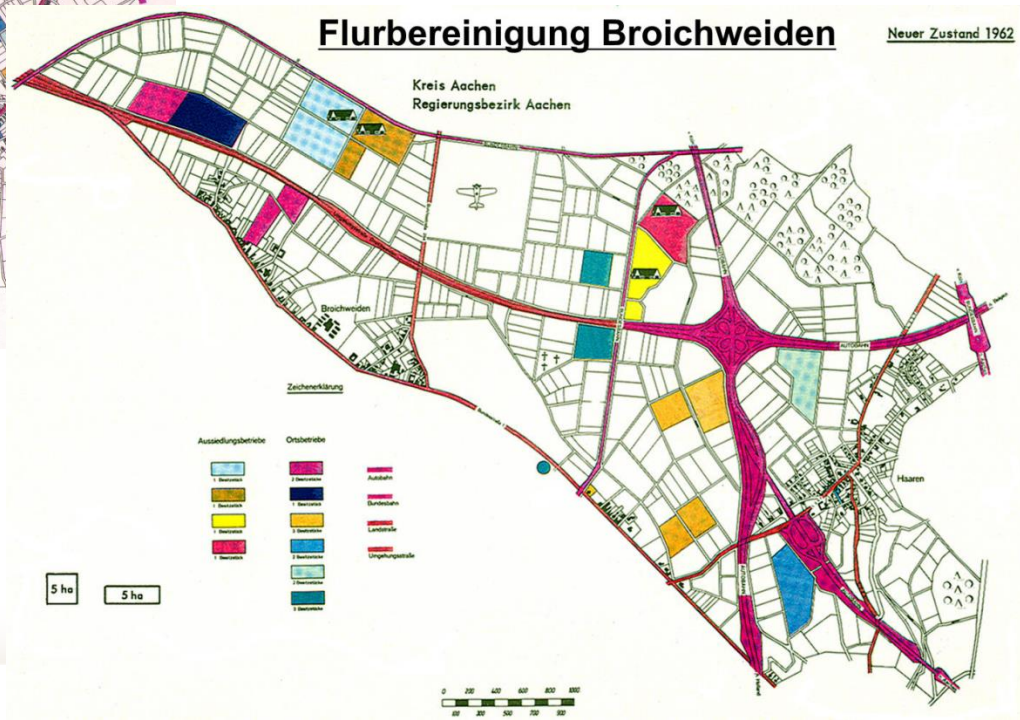
- **by free-hand purchase?** If Yes ✓ No
- **by voluntary land consolidation?** If Yes ✓ No
- **by compulsory land consolidation?** If Yes ✓ No
- **land consolidation in case of compulsory land acquisition -“Unternehmensflurbereinigung“-**

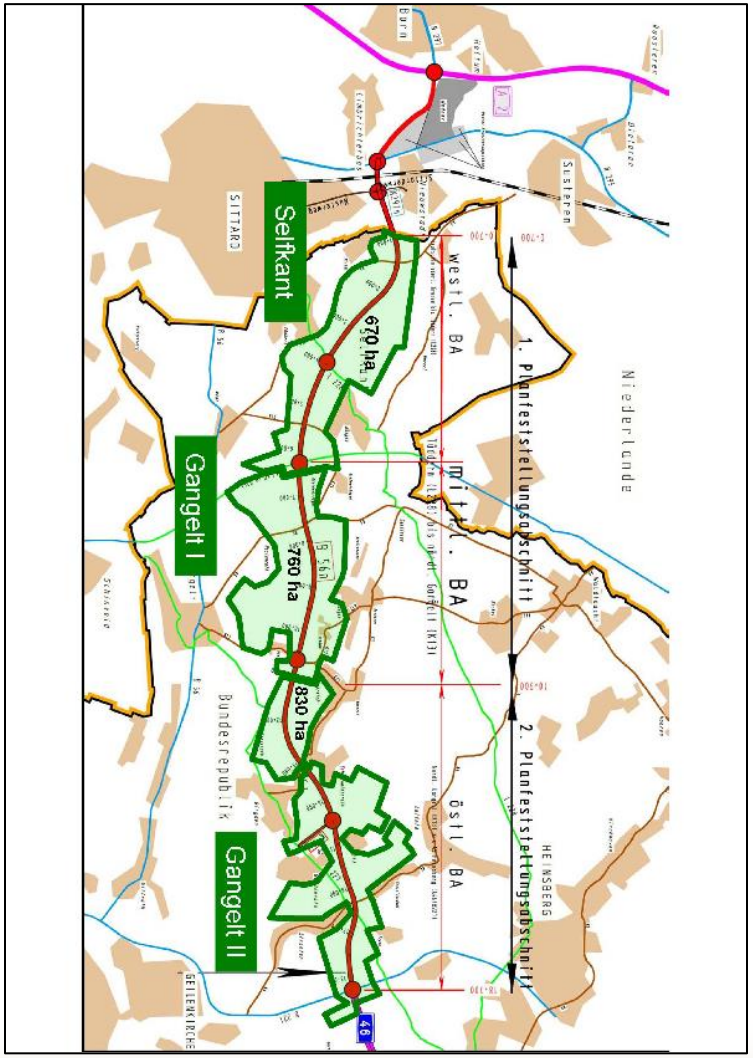
Distributed roles by free-hand land purchase



Land consolidation „Broichweiden“







chain of land consolidation projects

Calculation of the "contribution of land"	
• **Needed land of the highway project**	
○ in the line	**102 ha**
○ for environmental compensation	**88 ha**
In total	**190 ha**
• **Available land for the project**	
○ already in ownership of the developer	**17 ha**
○ purchased by the Land Consolidation Authority	**112 ha**
In total	**129 ha**
• **Missing land (difference)**	**61 ha**
• **Magnitude of the land consolidation area**	**2345 ha**
• **<u>Needed "contribution of land"</u>** (61ha/2345ha)x100	**<u>2,6%</u>**
• **In order to don't exceed a limit of 5%, the land consolidation area concerned would have to get a <u>minimum size</u> of** (61ha/5)x100	**1222 ha**

Calculation of the monetary compensation for the "contribution of land"	
• Land of owner A, involved in the land consolidation project • General "contribution of land" • Contribution of land owner A • Monetary market value of 1 VU (VU = valuation unit)	12,3456 ha with 23.457 VU 2,6% (0.3210 ha) 610 VU 23 EURO/VU
• monetary compensation of land owner A	14.030 EURO

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findings of the analysis:

added value of „Land Consolidation in Case of Permissible Compulsory Land Acquisition“

BMS CONSULTING

	costs	tangibel (monetarily computable)	intangibel (monetarily incomputable) benefit
project 1: Werl B1	586.650 €	1.531.825 €	▪ avoids the lost of real property ▪ full-time farming can survive ▪ less resistance and appeals against the Official Approval of the Plan ▪ better chances to realization of public projects of thirds ▪ better acceptance of the project ▪ improved environmental compensation ▪ promoting of leisure and tourism
project 2: Würselen	2.604.976 €	3.156.086 €	
project 3: Lövenich	622.188 €	1.910.886 €	+
project 4: Königswinter	2.437.543 €	3.928.809 €	
project 5: Bislich	2.340.551 €	2.603.554 €	
Sum	8.591.908 €	13.131.160 €	→ 1:1.5