

# ► Project *brief*

Thünen Institute of Rural Studies

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## Land ownership and land transactions in Bavaria

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- **On behalf of the Free State of Bavaria, we prepared an expert report entitled "Farmland in Farmers' Hands" on the basis of a questionnaire from the Bavarian Parliament.**
- **We dealt with the questions on developments and options for action on the agricultural land market from an agricultural economic and legal perspective.**
- **We make numerous recommendations for improving administrative implementation of the Real Property Transactions Act and evaluate alternative regulatory proposals.**

### Background and objective

The purchase prices for agricultural land in Bavaria are the highest in Germany and have more than doubled in the past ten years. This poses great problems for farmers who want to expand their farmland. The Bavarian State Parliament is looking for ways to influence this development. The legal basis for this is the current Real Property Transactions Act. Is there anything that can be done to improve its implementation in the state? Or should the Free State create new legal regulations?

We have prepared an expert report entitled "Bauernland in Bauernhand" (Farmland in Farmers' Hands) on behalf of the Bavarian State Ministry of Food, Agriculture and Forestry, which answers seven questions posed by the Parliament on developments and options for action on the agricultural land market.

### Approach

The report deals with the questions in an interdisciplinary manner from the perspectives of agricultural economics and jurisprudence.

In order to analyse transactions on the Bavarian farmland market, the Free State provided us with individual case data from the Bavarian electronic procedure for land transactions. From the data for the period July 2019 to June 2021, we evaluated 7,125 purchases of more than one hectare farmland with regard to their regional location, the buyers and the purchase prices. In addition, we analysed the available data from official statistics and real estate market reports.

We determined the current ownership structure of agricultural land from the data of the Official Real Estate Cadastre Information System (ALKIS) from a sample of 21 municipalities, each of them comprising 1,000 to 3,000 ha of agricultural land.

In order to investigate the current administrative practice in land transactions, we conducted an anonymous online survey in the approval authorities. This resulted in a high response rate of 69 completed questionnaires, providing comprehensive insights into the approval procedure.

Furthermore, we compared the legal regulations on the land market in Bavaria with those in other federal states as well as in Austria.

### Results

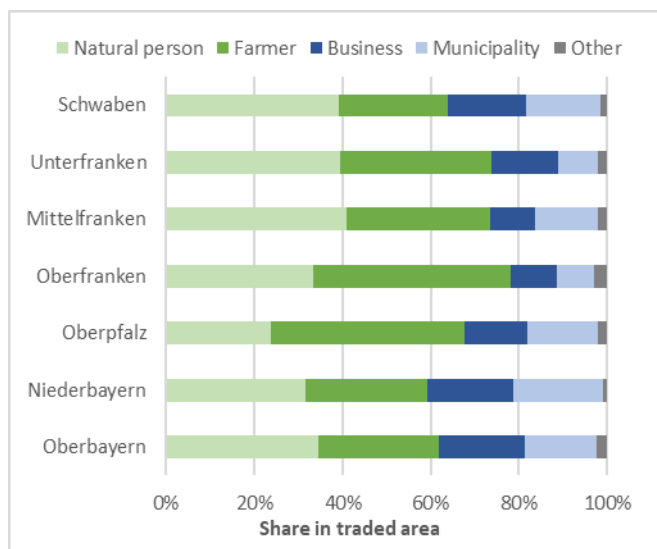
Farmland in Bavaria has recently declined by about 6,500 ha per year, as land has been taken up for settlement, transport, trade and other purposes. The number of farms is also constantly decreasing. The remaining farms have been able to expand their land base up to 36.7 ha per farm on average, mainly by leasing more land. In the last ten years, the proportion of farmland owned by farms has fallen from 54.5% (2010) to 47.5% (2020).

Our assessment of the ownership structures shows a wide dispersion within the sample municipalities. On average, 95 % of the agricultural land is owned by natural persons. About half of the land belongs to farmers and non-farmers, respectively. Just under 5 % of farmland is the property of public actors and less than 1 % of non-agricultural enterprises. A high proportion of 75 % of the land is owned by local residents. Ownership is widely distributed; more than 50 % of owners have less than 1 ha and only 13 % have more than 10 ha of agricultural land. The biggest land owner in each municipality owns 76 ha on average, that is 4.2 % of the local agricultural area.

The proportion of traded land is generally low: Only about 0.4 % of the agricultural land is sold per year, much of it for non-agricultural purposes. A much larger share, estimated at 3.2 %, is inherited or transferred to farm successors in the generational change.

The analysis of the purchase cases (Fig. 1) shows that about one third of the traded area was purchased by farmers and one third by non-agricultural natural persons. The remaining third is distributed among municipalities and non-agricultural enterprises. Other types of buyers such as the state or church congregations play only a minor role.

**Figure 1: Traded farmland by type of buyer and administrative district**



Source: Administrative data 07/2019 – 06/2021, purchases >1 ha.

In addition, non-agricultural companies and municipalities as well as non-farmers pay higher purchase prices than farmers. However, the exact location and utilisation options of the traded land are not known, so that no conclusion can be drawn about differences in market values. The analysis by administrative district (Fig. 2) also shows that where non-farmers pay the highest prices, farmers also pay higher prices on average than in other regions.

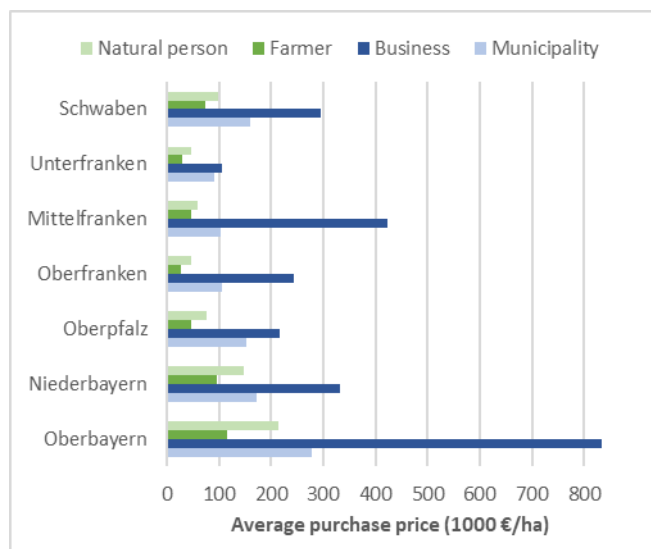
It can be assumed that farmers who were able to sell land at high prices have a high willingness to pay for substitutional land due to possible tax savings. However, the question of whether land is bought purely as a financial investment cannot be answered on the basis of the data.

It cannot be deduced from the data that local farmers are disadvantaged on the land market. Access to land for young farmers and start-ups is also not a particular problem in connection with the Real Property Transactions Act.

The price increase for agricultural land varied greatly from region to region. The questioning of the approval authorities revealed that a refusal due to an excessive purchase price has

hardly been examined so far. Price abuse is an independent ground for refusal that can apply to all types of purchasers. In our opinion, exceeding the market value by 50 % is the appropriate standard for examining a price abuse.

**Figure 2: Purchase prices by type of buyer and administrative district**



Source: Administrative data 07/2019 – 06/2021, purchases >1 ha.

According to the available statistics, the right of first refusal under settlement law is checked in 2.1 % of the relevant purchase cases in Bavaria; it has actually been exercised over sales of more than 1.5 % of the total traded area on average over the last eight years in.

### Recommendations

The report makes numerous recommendations aimed at improving administrative implementation. For example, the capacities for a consistent examination of cases relevant to agricultural structures should be strengthened. Purchases by municipalities should be examined according to the same rules as other purchases, provided there is no concrete need for building or compensatory land.

To check for price abuse, we recommend a two-stage procedure in which the regional land value is first checked and, if it is clearly exceeded, the market value of the land is determined. In order to strengthen the right of first refusal under settlement law, we suggest a capital increase for the non-profit rural association. Furthermore, an extended right of first refusal could be introduced which can be exercised in the case of acquisition by a non-farmer, even without an existing farmer who is willing to purchase and in need of an increase.

## Further information

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