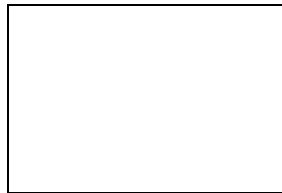


EXCHANGE PROGRAMME

BULGARIA



**Report based on Exchange Programme documents provided by
Nedialko Nedialkov**

Budapest, 2004

Short overview of the land market situation in Bulgaria

Bulgaria was not able to conclude accession negotiations ahead of the EU Copenhagen Council in December 2002 and is therefore earmarked for the next wave of accession 1 January 2007. Official sources say that the land restitution was finalized in 2000, more than 90% of all forestland property has been returned.

The current law stipulates that both Bulgarian and non-Bulgarian citizens are eligible to acquire property that has been expropriated during the collectivization process. However, a successful non-Bulgarian citizen must sell the property after buying. Only Bulgarian citizens can receive restituted farm and forestland. Restitution of communal properties has been somewhat more complicated.

Despite Bulgaria was one of the first Eastern European countries to pass property restitution legislation, land reforms are still not in line with this way of thinking. Although official data shows that almost 99.6% of the land has been returned, this figure doesn't reflect the real situation. Less than 70% of former owners or their heirs have a legal document confirming their ownership that allows them to use it in economic transactions. It is even more complicated to allow foreigners to buy land and to attract foreign investment because it requires changes in constitutional law. Most of these problems are connected with the process of democratic developments.

The Law on the Ownership and Use of Farm Land Act (OUFLA) (State Gazette no. 63/1991) has been changed 35 times since 1991. The ineffectiveness and lack of transparency of the judicial system contributes to the problems. So the process of re-establishing ownership over land and forestry remains long and complex issue within the next 2-3 years.

1. General Information

1.1 Location and Population

The Republic of Bulgaria is situated on the eastern Balkan Peninsula of southeastern Europe and has a territory of 110.994 sq km. To the north it borders on Romania, to the west on the Republic of Macedonia and the Republic of Serbia, to the east on the Black Sea, to the south on Greece and to the southeast on Turkey's European part. Sofia, with a population of about 1.200.000, is the capital of the Republic of Bulgaria. According to EC's Report for 2003 the population was 7.869 000 in 2002 and mainly consists of Bulgars. There is a substantial minority of Turks, and smaller groups of Gypsies and Macedonians.

Since November 1989, Bulgaria has been a parliamentary republic, ruled by a democratically elected government. Bulgaria, a former communist country, is striving to enter the European Union, and has experienced macroeconomic stability and positive growth rates in 2003 and 2004.

1.2 Geography and Climate

The climate of Bulgaria is temperate continental with clearly marked four seasons. A Mediterranean influence is felt in the country's southern regions. The average annual temperature is 10.5°C. The average January temperature is around 0°C. Average summer temperatures rarely exceed 30°C.

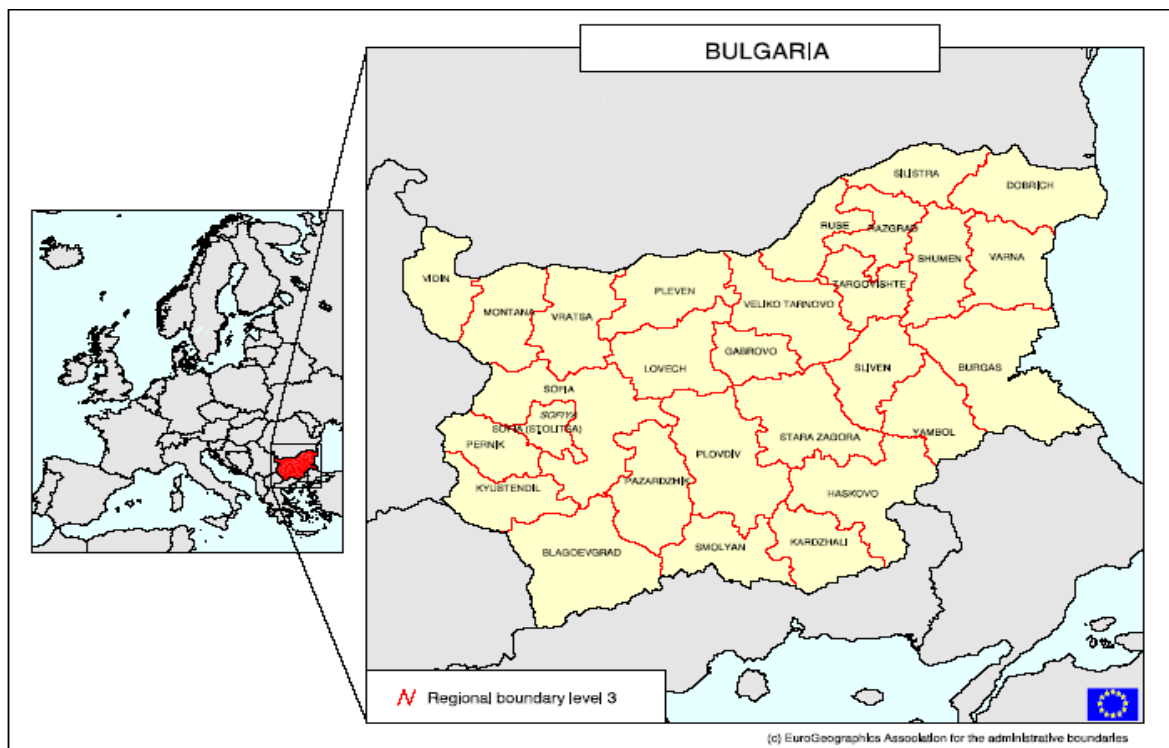


Figure 1 Map of Bulgaria

The relief of the country is diverse, including vast lowlands, planes, low hills, high and low mountains, valleys, river basins and deep gorges. The surface structures were formed during different geological eras. The average altitude of Bulgaria is 470 m. In the northernmost part of Bulgaria, to the south of the Danube River, lies the Danubian Hilly Plane, the largest plane in the country.

The Rila Massif and the Rhodopes are the highest on the Balkan Peninsula. They consist of the Rila Mountains (highest point – 2925 m), Pirin, the Rhodopes and the mountain group of Osogovo-Belasitsa. In the eastern part of Bulgaria, by the Black Sea Coast, there are well-outlined wide beaches. These occupy approximately 130 km of the Bulgarian Black Sea coast (378 km).

According to a study (MAF, 2003) carried out by the Ministry of Agriculture and Forestry (MAF), the territory of the country is utilized for following purposes:

Utilization of land	2003	2002	2001	2000	1999	1998
	Area (ha)	Area (ha)	Area (ha)	Area (ha)	Area (ha)	Area (ha)
Mining	32 484	32 439	32 142	32 913	32 733	32 738
Agriculture and Fishery	5 625 348	5 685 603	5 808 447	5 869 548	5 835 067	5 927 278
Forestry and Environment	3 671 760	3 678 757	3 681 810	3 695 131	3 692 663	3 691 301
Industry, Energy, Trade	65 106	64 085	64 364	64 941	65 812	66 107
Sea, Air and Roads	206 490	204 693	203 019	199 413	199 917	200 458
State and Local Administration	23 440	22 825	23 324	19 626	19 326	19 326
Army	50 728	49 548	49 463	52 978	52 862	52 966
Education and Culture	8 288	8 186	7 818	7 829	7 745	7 744
Hospitals, Social and Sport Centers	48 511	48 357	51 308	50 480	47 801	47 808
Individual and Block Houses	317 319	314 551	310 547	306 828	278 707	276 625
Currently not in use	1 049 886	990 316	867 118	799 673	866 727	777 009
Total:	11 099 360	11 099 360	11 099 360	11 099 360	11 099 360	11 099 360

Table 1 Utilization of territory

Source: MAF, Bulletin N 46/2003

2 Land Administration and Land Management

2.1 Land Registration

Bulgaria's land registration system is a deed registration system that was established in 1910 by the Law on Privileges and Mortgages, based on Belgian and Italian models. The first registration instructions were issued in 1951 and on 1 September 1997, the Council of Ministers (CM) issued the ordinance no. 339 on Registering Rights to Immovable Property, including mortgages. The registration is handled by the entry judges in 112 regional and district courts under the Ministry of Justice, that follow either the registration instruction from 1951 or those of ordinance no. 339. Due to current economic conditions, the system is under-funded and understaffed.

In 1991, Land Commissions (LC) were established in all administrative centers of the country, under the authority of the Ministry of Agriculture and Forestry (MAF), responsible for the implementation of laws. They register all claims concerning agricultural land and forestry and keep records on each parcel. Ownership rights occur upon the decision of the Land Commission but the owner has right to perform transactions after the decision has been made by the Commission. However, decisions of the Land Commissions can be annulled by court judgment. According to the Supreme Court, decisions, made by the Land Commissions are equivalent to notarised titles accompanied by a map and registered by the court. Decisions of Land Commissions are registered on request of the owners.

In Bulgaria, first Land Books were registered in 1910. Land transactions are registered with a mortgage registry, maintained in all 112 local and district courts by the Ministry of Justice (MJ). Practically, there is no information exchange among Land Commissions and entry judges concerning decisions made by Land Commissions. Thus, the information about land records does not guarantee a reliable and updated data. One of the reasons is that first Land Books were registered in 1910 and they must be kept for 100 years. So there is urgent need to restore and digitalize the Land Books. All these disadvantages are taken into account in the new Law on Cadastre and Property registration that is expected to will be passed by the end of this year.

Despite the soundness of the land registration system, it has faced challenges due to the vast increase in the number of new parcels as a consequence of the restitution process and the subdivision of restituted land among the heirs.

By the end of 2002, the Land Commissions made decisions on almost all claims on land and forestry. However, the development of local plans has not finished yet. There are several reasons for that. First, local plans are financed by local administrations, and for the last two years most of the municipalities operated under budget deficit. Second, most of the local plans are evaluated by the court that process causes some delay in providing maps to landowners. Third, the legal system in Bulgaria is undergoing restructuring. As a result of that delay, many local plans might be finalized in 2006.

Following the adoption of the Cadastre and Property Act (CPRA), the Government adopted in April 2001 a program for the establishment of a cadastre and property register. The program envisages the establishment of a title registration system. Modernization of the cadastral system includes digitalizing of owners maps as well. The main goals of the cadastral reform are to:

- Implement unified systems for cadastre and property rights registration,
- Facilitate land transactions,
- Define boundaries,
- Reorganize all local land plans into a unified coordinate system,
- Develop property register until 2015, and
- Provide access to information for the public.

Key roles in reorganization of the land administration system play PHARE projects, international assistance from the World Bank, and bilateral agreements with some EU countries. One of the priority areas within the frame of Accession Partnership is to create the necessary conditions for an efficient land market.

2.2 Current Land Conditions

The Ownership and Use of Farm Land Act (OUFLA) has created the legal framework for the land market. Further development was the establishment of the Bulgarian Cadastral Agency (CA) in 2000, as an administrative part of the Ministry for Regional Development and Public Works (MRDPW), when the Cadastre and Property Registration Act was adopted. Its role is to design and conduct a unified national system in both rural and urban areas. In April 2001, the Bulgarian Government adopted a long-term program to establish a cadastre and property register.

The National Geodetic Grid (NGG) consists of around 6 500 points, and is maintained by the Ministry of Defense. Local geodetic grids include more than 60 000 points. For the time being, the condition of local grids is unsatisfactory and most of the points are destroyed. During the period from 1960 to 1970 only the NGG was modernized and recalculated. The current geodetic system is under modernization and based on GPS technologies. In 1991, Bulgaria joined the

EUREF. In 1992/1993, international GPS missions were conducted and 7 basis and 8 additional points were selected on Bulgaria's territory as a part of the EUREF. These points are named BULREF and they serve as a base for radical modernization of the State Geodetic Grid.

The existing geodetic network is considered as inadequate for the new land and property rights registration system. This grid is of poor quality and causes many problems in boundary definition at the peripheries where different zones meet. The digital mapping being incorporated within the national information system for cadastre would function more efficiently and with fewer complications if it would be based on only one co-ordinate system. Coordinate systems of 1930, 1950, 1970, and the district of Sofia are used for civil purposes. Currently, the coordinate system of 1970 is used as a reference coordinate system. According to this coordinate system Bulgaria is divided into 4 reference zones. Geodetic information and services are under the Geodesy Directorate within the MRDPW. To improve information exchange and to integrate geodetic activities into the cadastre the government, in April 2004, proposed the creation of a Cadastral, Geodetic, and Mapping Agency under the MRDPW. It is expected that the law will be passed by the end of 2004.

Bulgaria's territory is covered by a large-scale topographic map, scale 1:5.000, for civil purposes, which consists of 17000 pages. For mountainous regions the scale is 1:10.000. The map is produced in photogrametric way. Under the land restitution process digitalized plans and maps were created on 4600 settlements in the country, and they are kept by the Ministry of Agriculture and Forestry. In 1999, forest restitution began and the process is almost completed. All maps produced during the land and forestry restitution will be used as a base for the development of the new cadastre.

According to the united territorial administrative division, there are 5342 towns and villages in Bulgaria. The development of cadastral plans for them was initiated almost 100 years ago. So some of these places have already several cadastral plans. Accuracy of the plans depends on technologies used then but most of them cannot be used now. Since 1995, all cadastral plans must be digitalized and each parcel must have an identity number.

A cadastral map is produced on the base of:

- New geodetic measurement,
- Plans produced by the LCs under the OUFLA and the Law of Forestry Restitution,
- Transformation, digitalization, and harmonization of data from existing cadastral plans and from plans containing cadastral information,
- Plans and pictures on technical infrastructure and industrial sites.

Sources for cadastral registers are:

- Inquiries of owners,
- Information from tax administration,
- Personal data,
- Data from municipal and state property,
- Data from entry judges.

Plans, maps and registers produced under OUFLA and the Law on Forestry Restitution will be submitted by the Ministry of Agriculture and Forestry to the Cadastral Agency. It is envisaged

that all urban cadastral plans, corresponding with 112 regional and district courts in the country, will be digitalized until 2005.

2.3 Development of Cadastre and Cadastral Agency

The main goals of development of the cadastre are to:

- Create Cadastral Agency,
- Draw up administrative procedures for implementation of the Cadastre and Property Registration Act,
- Update cadastral maps and registers on territory of the county,
- Implement information systems for cadastre and property registration,
- Secure administrative services for the public and state authorities during the transition process,
- Provide administrative services to the public and state authorities under the new cadastre.

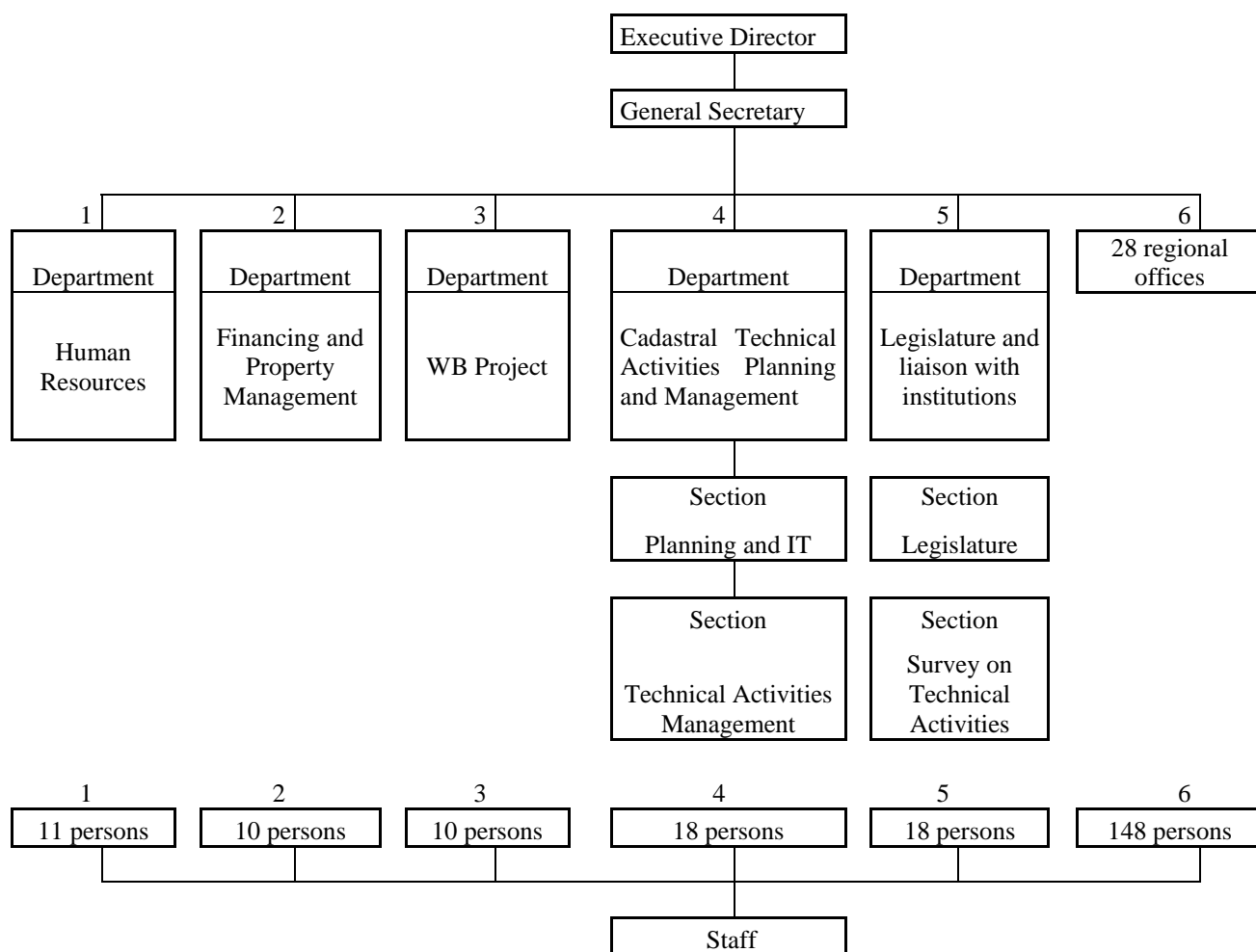


Table 2 Organizational Structure of the Cadastral Agency

The Agency’s local divisions, cadastral offices, are part of its specialized administration, and they are situated in all 28 district towns. Main activities of the cadastral offices include:

- Development and support of cadastre: assessment and control of technical activities,
- Control of geodetic activities and measurement on agricultural land,
- Providing cadastral information to clients,
- Development and maintenance of information systems,
- Maintaining of archive maps.

According to the Cadastre and Property Act, cadastral information services for the public and for clients are to be transferred from the municipalities to the CA. To ensure harmonization between the cadastre and the property register cadastral maps and registers will be established in line with the administrative structure of the Ministry of Justice, according to 112 regional and district courts.

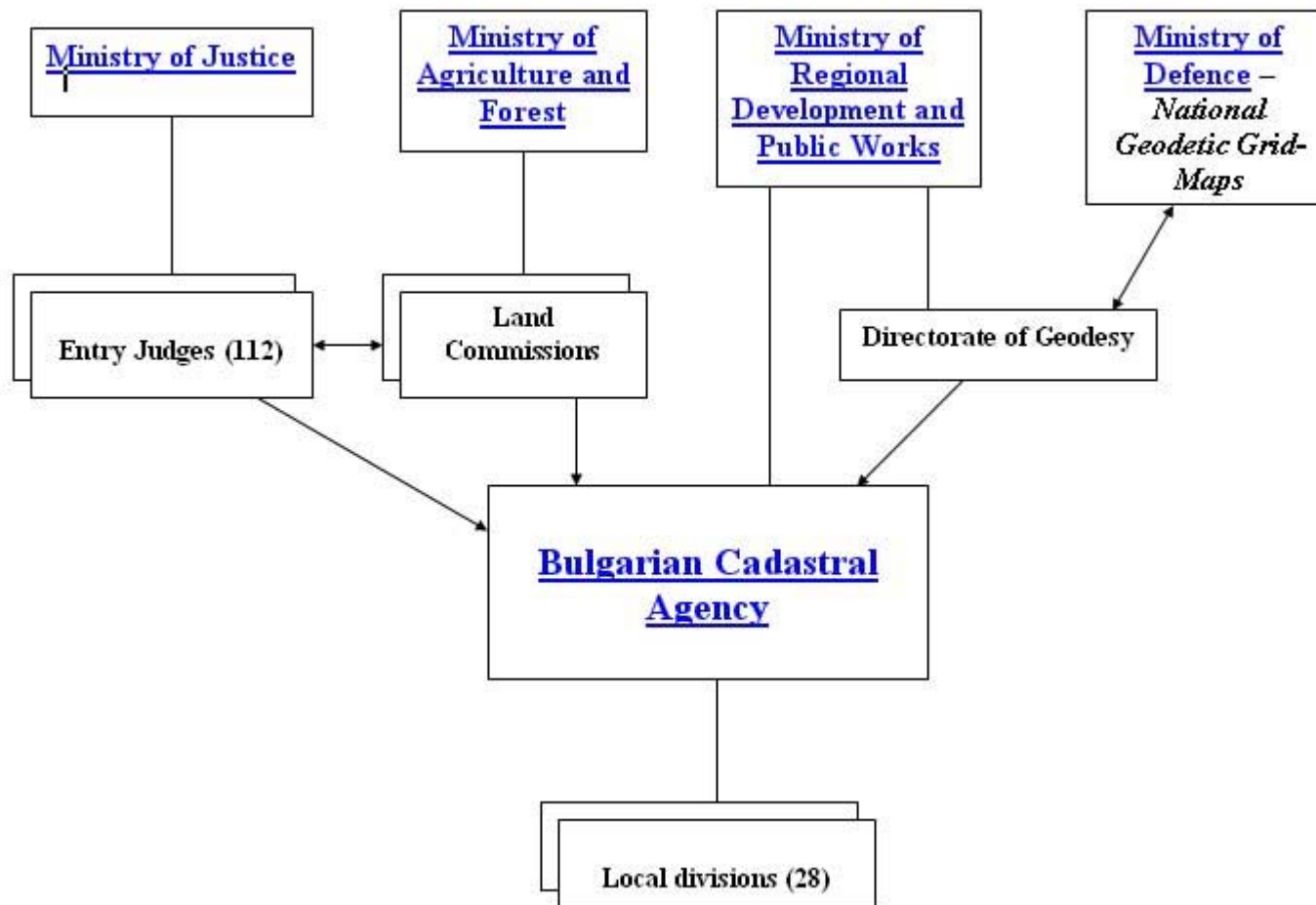
2.4 Property Register

Practical implementation of the Cadastre and Property Registration Act will cover gradually the whole territory of the country. Until then, entries will be done according to the existing deed registration system. Adaptation of the cadastral and a property register will follow the administrative structure of the courts. There will be two well-synchronized information systems, one for the register with the Cadastral Agency, and one for property register with the Ministry of Justice.

Activities of the Cadastral Agency are supported by a 5-year World Bank project. One of the objectives of the project is to establish an effective real property registration system that makes possible to reduce the transaction costs and the transaction time of the process. Concerning the cadastral and property registration, the work involves densification of geodetic network system, undertaking mass registration and conversion particularly involving cadastral survey and mapping, implementation of information technology framework, and design to link the cadastre and property registration functions in multiple offices. In the project, it is envisaged to support capacity building in the district courts and the Ministry of Justice, for the implementation of the new real property based registration system in the 112 regional and district courts. It is expected that by the end of 2006 about 2 mill. land parcels and 600.000 urban properties (representing approximately 65.000 ha) will be converted into the new cadastral and registration system.

The World Bank project also supports the construction and measurement of about 430 control points amounting to a density of one point every 250 sq km (i.e. about 16 x 16 km.). Therefore, it is needed adjustment of the network and transformation of all existing coordinates in the various local coordinate systems into the new system that will be based on the EUREF. The planned density of control points would be a transition step toward the use of continuously operating GPS systems in Bulgaria within the next decade.

There are around 2500 highly qualified experts including civil engineers and IT experts working in cadastral map development. Part of them works in large state-owned companies e.g. “Geoplanprojekt”, “Geodesy”, and “Agrogeometar”. These organizations have branch offices in all 28 district towns. The rest of them work in around 300 private companies licensed by the CA to perform activities concerning the cadastre. Currently, some problems exist with implementation of up-to-date photogrammetric methodology. Main reasons for that are high prices of technical equipment and lack of specialists for management and control of these activities.



Organizational Structure

3 Financial Framework

3.1 Land Valuation

Valuation of agricultural land is performed according to the Ordinance no. 118 of the Council of Ministers (State Gazette no. 64/1998). The Ordinance is based on the “*Instruction for condition and order to determine current market prices of agricultural land*”. This instruction applies for arable land that is not included in towns’ and villages’ boundaries, so it is not “regulation land”. In Bulgaria there are Land Commissions in all administrative districts, responsible for setting up initial prices for arable land. Prices are adjusted according certain criteria:

- Size of plots,
- Productivity of land,
- Distance from major market places,
- Distance to towns,
- Distance from the Black Sea,
- Altitude,
- Distance from main and secondary roads,
- Infrastructure and irrigation systems.

As an alternative method, the “*Basic Market Prices Method*” is also used. This method was developed on the base of the Ordinance no. 235 of the Council of Ministers (State Gazette no. 82/1996).

The third method for land valuation is the “*Tax Rate Method*”, used in cases of transactions, tax and mortgage of land. According to the method, market prices of immovable properties are two times the price defined in Annex 1 of the Law on Local Tax and Rates (State Gazette no. 117/1997).

Commercial banks have developed their own procedures. Most of the banks appraise real property at 70 percent of the price the buyer and seller agreed on.

There are more than 3000 certified business appraisers in Bulgaria. First licenses were issued by the Privatisation Agency in 1992. Nowadays, licenses are issued by the relevant state institutions. For example the MAF is responsible for licensing in the agricultural sector, and the Cadastral Agency for licenses concerning cadastral activities.

3.2 Land Liquidity and Land Transactions

Due to the underdeveloped land market, credits are not available for buying land. In some places, where the restitution process has been completed, market for arable land for agricultural purposes is developing. Purchase and selling of agricultural land exist in areas nearest the bigger cities and the Black Sea. Most of the investors hope they are able to receive permission to transform agricultural land to urban land. Main actors in this process are large companies, which can finance short and long-term investment.

At the same time, there is a great interest in selling and exchanging all types of land and buildings. Although there are more than 1.000 real estate agencies in Bulgaria, there is no information exchange between real estate agents. Purchases and sales are done according to the Law on Obligation and Contracts (State Gazette no. 275/1950). Contracts for transfer of

immovable properties must be notarized and decisions of the Land Commissions must be notarized before the transaction.

Active agricultural land market exists in areas close to Sofia, the Black Sea, and some district cities. As in any other place, the agricultural land is within the boundaries of *regulation land* or out of boundaries. “Regulation land” is usually 3–10 times more expensive compared with regular agricultural land. Most of the buyers speculate that after purchasing agricultural land, they can change the status into urban land. The cost of this process sometimes exceeds the purchasing price 2–3 times; it costs between 80 – 800 BGL (40–400 Euros) on average.

The “contract price” is usually lower than the market price. Tax authorities value land according to specific theoretical norms and they calculate the “contract price”. Prices for agricultural land out of “regulation land”, i.e. arable land for agricultural utilization, range from 30 Euro–500 Euro.

Another form of land transactions, land lease dominates the land market. If the lease contract is less than four years, it is not under the protection of the lease law. As a result of restitution, leases last for one year and they are called rental agreement. They can be renewed every year and do not need to be notarized. Commercial banks do not accept rental agreements as collateral for loans. The Land Lease Law requires a period of minimum 5 years and less than 50 years. The maximum land size that can be leased is 600 ha. Taxes and levies are paid on lease land. The leaseholder has a pre-emptive right to purchase leased land.

Key actors on the lease market are private farmers and cooperatives. Private farmers usually lease land from cooperatives, pensioners, or people who live in towns. Members of cooperatives who have land usually contribute the lease right to the cooperatives. That is the reason why cooperatives lease out land to private farmers. This way of leasing makes it easier for the farmer to make one agreement instead of dozens. Developments show that private farmer lessees pay higher rents to lessors than cooperatives farm lessees. In most cases cooperatives do not pay rent or pay quite small amount.

Agricultural land is often leased from the state or municipalities. Municipal land fund are generally kept for compensation after restitution but land is also available for lease. Agreements are for one year until the restitution is completed

State land leasing has also some social implications. There are two groups of people who have priorities to lease in state land; people without any arable land; people with less than 0.5 ha of arable land. If land is left MFA can order an auction in which farmers and cooperatives participate. Same procedure applies in case of municipality land.

3.3 Land Mortgage

Bulgaria has adopted only the “Law on Mortgage Bonds” (State Gazette no. 83/2000). This law does not allow land as collateral. For mortgage of land (immovable properties) applies the law on Obligations and Contracts (State Gazette no. 275/1950) and for public sale the Code of Civil Procedures (Izvestija no. 12/1952). Both laws were adopted 50 years ago and reflect the “collective ownership” philosophy. It is within the responsibility of the MJ to initiate to amend or re-write mortgage legislation. Some issues concerning collateral and mortgage of immovable property are considered in the banking law as well. According to the Banking Act (State Gazette no. 52/1997) a purchase money mortgage allows for any type of real estate. This instrument is now widely used for purchases of apartments. Usually when a new building is purchased banks finance up to 70% of the purchase price.

Currently, in Bulgaria there is no specialized institution in agriculture, dealing with mortgages and credits to the private sector. The state, under the “Agricultural Fund”, and EU under the frame of National Agriculture and Rural Development Plan 2000–2006 (SAPARD) provide assistance to the agricultural sector. This assistance provides at least limited financing, but it is often criticized for extremely bureaucratic procedure, and ignorance of market conditions in favour of political benefit. Assistance provided through state credit programs have reached some of better-off farmers. This approach contributes to support of inefficient farm structures and distorts the agricultural credit market. Six commercial banks are involved in lending to the agricultural sector under the state assistance and SAPARD Program

The “Agricultural Fund” provides guarantees only for loans provided by the six banks under SAPARD Program. The guarantees are for medium and long-term loans to the private sector but they do not deal with immovable assets and agricultural land. Therefore there is a shortage of both short-term and long-term credit for agricultural sector. The private agricultural sector is the main recipient of credit but current state programs and financial institutions are not responding to its needs.

3.4 Mortgage Lending

There are 38 commercial banks in Bulgaria and most of them are owned by foreign investors. 18 commercial banks are dealing with mortgage credits in the country. Involvement of all banks in providing farm credits is extremely limited.

Credit cooperatives are also involved in agricultural sector financing. Legal framework on cooperatives is based on Cooperative Act adopted in 1991. The law allows the establishment of cooperatives to perform financial services but does not provide legal framework.

Within a frame of a project, carried out by German experts, EU has organised 33 credit cooperatives in 28 districts towns and villages with developed agricultural activities. Credit cooperatives may lend money only to its members. Usually credits are for working capital up-to one year but some credit cooperatives provide also credits to 3 years. This system of financing has its roots from the communist period when so called “mutual accounts” existed in almost each organisation. Members of “mutual accounts” were required to contribute certain amount of money and then each member can borrow back several times higher amount of money he/she had contributed. Implementation of this system in the agricultural sector by cooperatives is limited because credit cooperatives are not able to provide financing for long-term investment, infrastructure, machines and buildings. Depending on the cooperatives they usually require collateral between 100–12% for loans. At the same time, the collateral is discounted by 20–25%. Interests on loans are between 11–13%. The credit cooperatives play an important role in land market development. Some of them use agricultural land as collateral based on LC decisions and maps. One barrier to use land as collateral is the restriction in the Cooperative Act concerning cooperatives’ assets. According to the law cooperative member are not allowed to contribute land to the assets.

As mentioned at the beginning, the OUFLA was amended 35 times between 1991 and 2002. Although the restitution process has been completed according to official statistics, there are many unresolved claims; land division plans are not completed yet. Therefore in many cases legal rights to land are unsecured and land cannot serve as collateral. Collateral is an important part in many lending decisions and in developed countries land is the most common collateral for agricultural lending. In Bulgaria the OUFLA created private ownership of land and laid the

foundation of mortgage financing. So the most important assets for the development of agricultural sector, agricultural land, is still not accepted as collateral.

Banks are providing loans mainly to agricultural producers and to industry companies. Banking crises in 1994 and the introduction of a currency board in 1999 have contributed to the restriction of agricultural lending. It is one of the reasons why commercial banks do not accept agricultural land as collateral for loans. Immovable properties such as buildings, flats, urban parcels in Sofia and 2-3 district towns are being used as loan collateral. There is no doubt that the establishment of the land market will attract commercial banks' interest to agricultural sector because of its potential to grow and profit.

Lending activities in agricultural sector are limited by certain regulatory requirements as well. The Bulgarian National Bank also requires that the value of collateral for commercial loans be higher at least 125% of the loan amount. As a consequence, commercial banks discount the value of collateral by 25-40% and they require collateral from 120–200% of loan amounts. Commercial banks also must sell all fore closed assets within two years according to the Banking Act

Of course, there are optional sources of credit by some private companies but they could not be considered as alternative sources. The reason is that they are not regulated.

3.5 Land Taxation

There are no taxes for court appeals on cases concerning Land Commission decisions. There is a transition period for taxes on restituted land. Taxes are not paid for five years after LS decision is issued. Notaries in Bulgaria are private but the fee schedule is set by the law.

Conversion of agricultural land to non-agricultural use is beyond restitution process. That is why tax is paid for these services. Minimum tax for 0.1 ha is 80 BGL (40 Euros) and depending on a region and soil type they can reach 400 Euros.

4 Legal Framework

- Ordinance no. 339 of the Council of Ministers on 1 September 1997, for registering rights to immovable property, including mortgages
- Cadastre and Property Registration Act (http://www.mrrb.government.bg/docs/doc_123.htm)
- The Ownership and Use of Farm Land Act, March 1991 (<http://www.balkanica.org/content/CountryProfile/sou19.pdf>)
- The Law of Forestry Restitution, March 1991
- Ordinance no. 118 of the Council of Ministers for the Valuation of Agricultural Land (State Gazette N 64/1998)
- Ordinance no. 235 of the Council of Ministers for the “*Basic Market Prices Method*” (State Gazette no. 82/1996)
- Law on Local Taxes and Rates (State Gazette no. 117/1997)
- Law on Mortgage Bonds (State Gazette no. 83/2000)
- The law on Obligations and Contracts for mortgage of land and immovable properties (State Gazette no. 275/1950)

- Code of Civil Procedures for public sale (State Gazette no. 12/1952)
- The Banking Act on purchasing money mortgage (State Gazette no. 52/1997)
- The Cooperative Act, 1991 (State Gazette no. 63/1991)
- The Land Lease Law
- Transformation and Privatisation of State-owned and Municipal Enterprises Act.
Promulgated: State Gazette No. 38/08.05.1992. Amended: State Gazette no. 51/1994; 45, 57 & 109/1995; 42 & 45/1996
- Ownership and Use of Farm Land Act. *Promulgated State Gazette no. 17/01.03.199. Amended SG No. 74/1991; 18, 28, 46 & 105/1992; 48, 64 & 83/1993; 80/1994; 45, 57 & 59*/1995; 79/1996*
- Ownership Act. *Promulgated State Gazette No. 92/16.11.1951. Amended SG no. 12/1958; 90/1960; 99/1963; 26 & 27/1973; 54 & 87/1974; 55/1978; 36/1979; 19/1985; 14 & 91/1988; 38/1989; 31/1990; 77/1991; 33/1996.*
- Restitution of Some Expropriated Property Act. *Promulgated State Gazette no. 15/21.02.1992*
- Restoration of Ownership of the Confiscated with Decree no. 88 of the Presidium of the National Assembly (unpublished) Immovable and Movable Property Belonging to the Catholic Church within the Borders of the People's Republic of Bulgaria Act. *Promulgated State Gazette No 104/24.12.1992.*

5 Ownership structure

5.1 Land Restitution

Bulgaria was among the first accession countries to pass a law on land restitution. The OUFLA was adopted in March 1991. Since land in Bulgaria had been expropriated from its owners during the collectivization process, all restitution was made from state property. Nevertheless, state land policy is not consistent and reforms in land administration are very slow on both governmental and local level. A land restitution process began in 1991 undertaken by the Land Commissions (LC) under the MAF. Under the OUFLA former state land, used by agricultural cooperatives, was restituted to former owners.

Former owners of land or their heirs were able to reclaim, from March 1, 1991 to August 4, 1992, their land or assets in kind, or could receive compensation. To receive land, the entitled person has to assert a claim to the regional LC. After the August 4 1992, claims had to be filed by the courts. Restitution of land ownership rights is based on the Land Books, first registered in 1910, old land boundaries, restoring cadastral parcels that existed before 1944, written evidences, or oral testimonies. Therefore first was restituted land with real boundary that were preserved and existed. Afterwards individual parcels were restituted, which boundaries were not preserved and could not be recreated.

According to the estimation of the Bulgarian Association of Investors (BAI), 25% of the agricultural land was restituted in “real boundaries”. According to government statistics restitution is almost completed. This is true in the sense that restitution process has been completed in theory i.e. almost all claims to land eligible for restitution are registered. On the base of all claims LCs prepared a Land Division Plans (LDP) including all landowners. Then landowners are provided with a Land Commission Decision (LCD) entitled to the owners or their

heirs, a map of their parcels, and a protocol entering the land into the possession of the owner. According to Supreme Court's decision, in 1977, a decision of the LC is equivalent of notarized title and must be accompanied by a map. LC decisions list the original owners and his/her heirs. The information contained on decisions is the same information contained on a notarized title.

It is true that almost all owners have received LCDs. However, LCDs and LDPs could be challenged. In cases, where land division plans must be redrawn and the land, including buildings on it, has been sold before the claims are settled, original owner or his/her heirs are entitled to receive compensation. The compensation is in money, land from the municipal land, or shares from municipal and state companies which already own the land. Due to amendments of the UOFLA and subsequent changes in the restitution procedure, landowners have the perception that land division plans and titles will not be secured until the restitution process is not completed. In this connection on practice around 10%, according to BAI, of the agricultural land covered by land titles and land division plans are under court procedures. This situation has also negative impact on land market development as well.

5.2 Dispute resolution

There is no alternative dispute resolution system. For dispute resolution on land restitution claimants must submit a claim to the court through LCs. There are three levels of courts in Bulgaria.

The first level is the regional and district courts. The second level is the Court of Appeals. The highest level is the Supreme Court. Bulgaria has a separate administrative court as well. The administrative courts have authority over claims against administrative acts. Appeals against LC decisions concerning land restitution are examined by the local courts. LC decisions could not be appealed to the Supreme Court. Claims concerning LDPs are examined by the regional courts. A final appeal against land division plans shall be made with the Supreme Court.

5.3 Land Consolidation

Land consolidation involves large-scale replotting of the land. As a result of the OUFLA small land plots have emerged and in 2001 they formed 93 percent (MAF, Bulletin no. 14/2001) of the utilized agricultural land. Land consolidation is impossible without well-developed land and property registration. In this connection the Government has adopted, in 2001, long-term program for establishment of cadastre and property register. An established Cadastral Agency, in 2000, is a ground for the consolidation process.

There is no doubt that small land holdings cannot reach profit level of farms in EU-15 countries. Therefore the government makes efforts to encourage land consolidation. There are some psychological barriers concerning state involvement in this process. One of the aims of transition from planned to market economy is to limit state involvement in agricultural land management as well. So this psychological barrier has less positive impact on government initiative to establish "Land Fund" to accelerate land consolidation. There are no details so far about how the Government envisages administration of land consolidation. MAF has positive steps to facilitate land market in the country. An initiative to publish on-line information about land transactions on its website is very constructive. This approach has positive impact on land market and will most likely accelerate land consolidation process. Consolidation process has not started yet and this is one of the reasons land market and lending to the agricultural sector are underdeveloped.

5.4 Farm Reorganization

Farm reorganization began in 1991 under the OUFLA, which provides the legal framework. The Cooperative Act (State Gazette no. 63/1991) was adopted in 1991. The Act was amended several times in order to make organizational structure in line with the EU requirements. According to the Act seven physical persons can establish a cooperative. In many cases to reach this minimum number family members are registered as cooperative's members. These newly formed cooperatives are actually private farmers. Some cooperatives were formed out of the state-owned agricultural complexes. In rural areas in almost every village there was one state owned cooperative.

In 1999, land ownership was excluded from cooperative assets. So cooperative members cannot contribute land to cooperatives and they retain ownership over their land. Therefore, cooperatives do not own land and respectively cannot use it as collateral for loans.

5.5 Structure of Farming

The available agricultural land in the country is 5.625.348 ha and according to the agricultural statistics from the MAF, only 3.865.900 ha are utilized. These figures indicate that in 2001 almost 30% of agricultural land was idle in Bulgaria. Taking into account economic condition for 2002–2004 one can say that drastic changes cannot be expected concerning utilization of the agricultural land. This high percentage is indicative of the hard economic conditions facing farmers in Bulgaria. One of the reasons is under-developed land market. Even in a long term it is difficult for small farms to develop into profitable holdings and to be economically sustainable.

As a result of the land restitution, approximately 2.5 million small parcels were created and state owned agricultural cooperatives have ceased to exist. According to the MFA, 93% (MAF, Bulletin no. 30/2002) all 5.625.438 ha agricultural land is privately owned. Therefore, small subsistence farming prevails in the Bulgarian agriculture, with only 0.2% of the farms with more than 10 ha. The average cultivated land plots per private farms are estimated to be between 1.2 -2 ha. The latest data on farm structures is from 2000/2001. A total of 768.800 farms operate with an average size of 4.5 ha. Farms registered under the law cultivate 74 percent of the utilized land. More than half of these farms are cooperatives. Juridical entities only account for about 1% of the total number of farms but are large in terms of area (600 ha) and cultivate 51% of the utilized land. Nevertheless, it is hard even for cooperatives in this size to survive nowadays.

Type of farm	Number of farms		Total utilized land		Average utilized land (ha)
	Number	%	ha	%	
Not registered physical persons	763 500	99	880 000	26	1.2
<i>Including not personal holdings</i>	<i>50 600</i>	<i>7</i>	<i>430 200</i>	<i>13</i>	<i>8.5</i>
Juridical entities	5 300	1	2 555 700	74	482.2
<i>Including agricultural cooperatives</i>	<i>2 900</i>	<i>0.4</i>	<i>1 738 600</i>	<i>51</i>	<i>599.5</i>
Total	768 800	100	3 865 900	100	4.5

Table 3 Number of farms in 2000/2001. Source: MAF, Department "Agrostatistika", Bulletin no. 30/30.00.2002, PHARE BG 0006.05

According to the data, provided by the MAF, 763 500 agricultural holdings manage 880.000 ha utilised agricultural land and they have, on average, plots about 1.2 ha. 2.900 cooperatives use 51% of the utilised agricultural land.

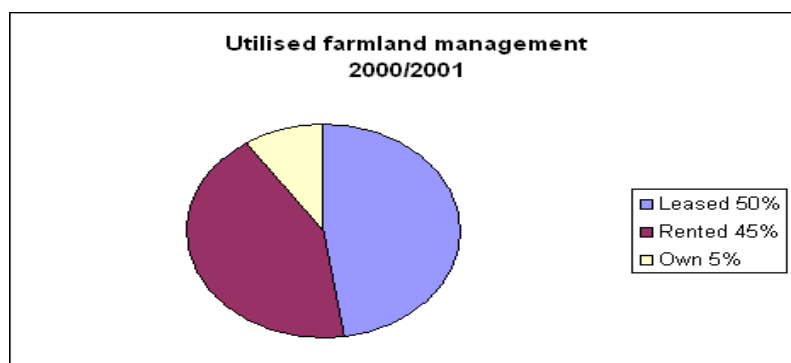
7% of the farms belong to natural persons but are not personal holdings and these have an average size of 8.5 ha. They cultivate 13% of the utilised land. The remaining 13% of utilised land is distributed among more than 700.000 small farms. According to the MAF, these farms are practically personal holdings producing for them, not for the market. These small farms (including households) continue to cultivate personal plots, as they existed before the adoption of the OUFLA. There is no doubt that the efficiency of such holdings is low. They produce mostly labor-intensive commodities such as fruits, vegetables, grapes, and livestock products. The larger farms with more than 2 ha grow more labor extensive types of crops, such as cereals. The law allows them to form partnerships in order to produce in more efficient way.

	Crop farms	Predominantly crop	Livestock farms	Predominantly livestock	Mixed farms	Total farms
Number of farms						
Physical persons	5900	6100	10200	6300	7700	36200
Cooperatives	2600	460	15	0	50	3125
Other juridical persons	1400	140	335	200	200	2275
Total	9900	6700	10550	6500	7950	41600
% of total farms	23.8%	16.1%	25.4%	16.6%	19.1%	100%
Area in 000 ha						
Physical persons	156	20	18	9	23	226
Cooperatives	1853	345	0,5	0	20	2218,5
Other juridical persons	632	12	2,5	0,4	10	656,9
Total	2641	377	21	9,4	53	3101,4
% of total farms	84.7%	12.7%	0.7%	0.3%	1.7%	100%

Table 4 Farm Classifications in Bulgaria. Source: MAF, Department "Agrostatistika", Bulletin no. 30/30.00.2002, PHARE BG 0006.05

Commercial farms, 41.600 are classified by type of production as follows. Livestock or predominantly livestock farms are about 41%, and about 40% are classified as crop or predominantly crop farms. 19 % of all commercial farms are of mixed type. The vast majority of agricultural area is cultivated by crop farms with the legal form of cooperatives and other juridical forms.

50% of utilised farmland is rented, 45% are leased and only 5% are own farmland. High proportion of rented and leased farmland is due to the fact that 74% of the farmland is cultivated by juridical entities (predominantly cooperatives and farmers registered as sole traders) that do not cultivate their own land. On the other side ¼ of not registered physical persons rent farmland that represent more than 80% of their utilised agricultural land and 75% of the total utilised land cultivated by physical persons. In practice only ¼ of the utilised agricultural land by physical persons is their own land.



Type of farm	Own	Rented	Leased	Other form	Total
Not registered physical persons	23%	30%	46%	1%	100%
Juridical entities	2%	48%	50%	0%	100%
Total	5%	45%	50%	0%	100%

Table 5 Distribution of utilised agricultural land according to management Source: MAF, Department "Agrostatistika", Bulletin N 30/30.00.2002, PHARE BG 0006.05

More than 2/3 of physical persons and 90% of juridical entities that utilise not less than 4.5 ha use agricultural machinery and equipment (Table 7). Majority of these farms use their own machinery and provide services to other farms as well.

Type of farm	Tractors			Combines		
	Own	Collective	Rented	Own	Collective	Rented
Unregistered natural persons	57%	3%	8%	11%	2%	12%
Legal entities	86%	4%	6%	66%	3%	9%
Total	71%	3%	7%	37%	2%	11%

Table 6 Machinery equipment of farms, above 4.5 ha Source: MAF, Department "Agrostatistika", Bulletin no. 30/30.00.2002, PHARE BG 0006.05

Legal entities and natural persons have irrigation systems on 93.600 ha on their utilized agricultural land. This represents 22% of their utilized land.

	Natural persons		Legal entities		Total	
	ha	%	ha	%	ha	%
Total utilized agricultural area	53 700	100%	366 700	100%	420 400	100%
With irrigation systems	17 300	32%	76 300	21%	93 600	22%

Table 7 Irrigation systems on farms by legal and natural persons. *Source: MAF, Department "Agrostatistika", Bulletin no. 30/30.00.2002, PHARE BG 0006.05*

The share of women in the agricultural sector is more than 1/3. In juridical and natural persons' farms they are only 26%. 12.5% of employment in the agricultural sector is under 35 years, while those above 64 years are 28%. More than half of men and women in the sector are pensioners or their age is close to retirement.

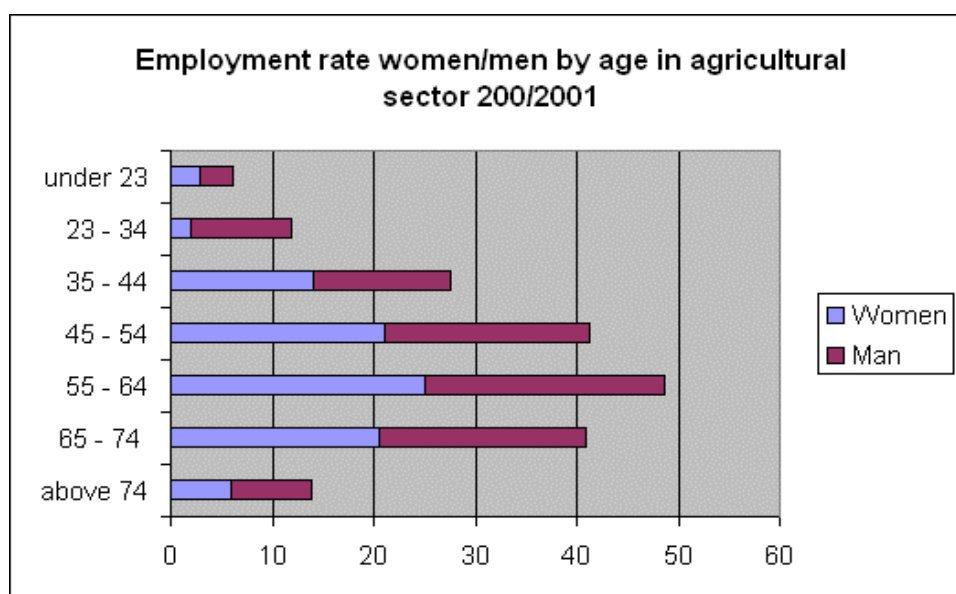


Figure 2 Employment rate of women and men by age in the agriculture, 2000/2001

5.6 Land use and Planning

According to the OUFLA, it is required that holders of agricultural land cultivate and protect the land, and take into account environmental regulations. The process of conversion of agricultural land to non-agricultural use is regulated by the Ministry of Agriculture and Forestry. Besides there are also plans developed by municipalities and they should be taken into account. Under current economic conditions conversion to non-agricultural purposes land is costly process because a heavy tax on land to be converted. The tax sometimes is two-three times the sale price and extra costs are added depending on soil quality and built-in infrastructure. Conversion includes activities beyond restitution process and that is why it includes additional procedures and expenses.

6 Policy

6.1 Land Policy

In fact Bulgaria was among the first accession countries to pass a law on land restitution. Nevertheless state land policy is not consistent and reforms in land administration are very slow on both government and local level. A positive step towards efficient land administration development is privatization of some procedures as land valuation, surveying and registration. The rest of land administration procedures remain under governmental control. This control includes the MAF, MJ, Ministry of Regional Development and Public Works (MRDPW), Ministry of Environment and Water (MEW). A structure of their responsibilities includes:

- Land restitution and privatization, carried out by local offices, LCs, under MAF.
- Land cadastre, cartography, and geodesic activities by MRDPW CA, Geodetic Directorate,
- Property rights registration, MJ
- Environment protection, MEW.

As a whole MAF is acting as a central body overseeing land policy. Despite of the fact that there is cohesive land policy infrastructure current developments show that there is a need for efficient land policy.

6.2 Role of the Private Sector

Private land market services are under development. As in many all accession countries these services grow out of the urban land markets. So currently private services include mostly urban land. Because many changes and amendments in the OUFLA, so far, private services in agricultural land are under developed. Also these services require involvement of experts in different fields and because low demand they are underdeveloped.

Biographical Notes

Mr. Nedialko Nedialkov is the chairman of the Bulgarian Association of Investors. He has a broad experience in development, coordination and implementation of international projects concerning land valuation, land sales and purchase, land ownership. and development of new cooperatives.

