

HANDOUT

INNOVATIVE OWNERSHIP OF FARM BUILDINGS

INNOVATION
IN ACTION
SERIES

Ries Hof © Kulturland eG

Kulturland-Genossenschaft



CONTEXT

Access to land organisations that acquire (or accept donations of) farms face the challenge of how to be "good owners" towards their tenants. While good stewardship of land can be relatively easy—using a long-term contract with good requirements concerning land use—good stewardship of buildings requires much more continuous involvement. Even in a very liberal tenancy contract, the owner remains responsible for very detailed questions with regard to maintenance and changes to the building. Many access to land organisations have made the experience that building maintenance requires lots of time, which in some cases can only be financed by higher lease payments, while farmers oftentimes remain unsatisfied with the outcome, wishing to have more freedom to maintain and redesign their farm buildings.

WHAT'S AT STAKE?

The question of building ownership is especially relevant in the face of generational renewal supported by efforts to collectively finance land (turn it into a commons). New entrants ask for liberty to invest in and develop buildings freely. Kulturland eG has implemented an innovative building ownership model, which secures the farm buildings in a "steward-ownership" agreement. Tenant farmers are free to invest in the buildings in the context of their farming business. In a generational renewal/succession process, the retiring farmers can sell the buildings to the next generation for a fair price, compensating for their own investments in the buildings and providing them with retirement capital. At the same time, the price is capped, to ensure the next generation of successors can enter the farm with low capital requirements.

"Innovation in Action": In 2020-21, six RURALIZATION partners conducted eight-month-long participatory action research projects to explore new solutions to leverage farmland in favour of agroecological transition, generational renewal, and rural regeneration. The results of their actions are presented in this series.

INNOVATIVE

✓ Dissociating the ownership of land and buildings through a hereditary lease contract

✓ Safeguarding the "unity" of farm holdings in the long term (both land and buildings to remain contractually tied regarding their farming purpose)

✓ Guaranteeing that buildings are handed over to each succeeding generation at a fair price (determined by an independent appraiser)

IMPACTFUL

✓ Enable new farm entrants to have full freedom to maintain, change and shape the farm buildings freely

✓ Free the land organisation from the responsibility to take care of buildings (saving management time and costs, which can permit lower leases in some cases)

✓ Facilitate generational renewal through eased transfers, where new farm entrants need relatively low up-front capital (though bank financing) while the retiring generation is compensated for its own investments in farm buildings.

OBJECTIVE

Enabling active farmers to take full control of the farm buildings, while securing land and buildings as commons

ACTION PLAN

Task 1: Analyse context and actor strategies

- Describe existing and ongoing innovative building experiences by farm
- Build a sociogram to improve understanding of relations and interdependencies of actors

Task 2: Discussing strengths and weaknesses of possible models

- Organise telemeetings and workshops (with stakeholders of advanced and on-going cases) to discuss different building ownership options

Task 3: Establish concepts, visualisation, calculations

- Work out concepts and Memorandums of Understanding for interested farms
- Document agreed contractual and financial structures

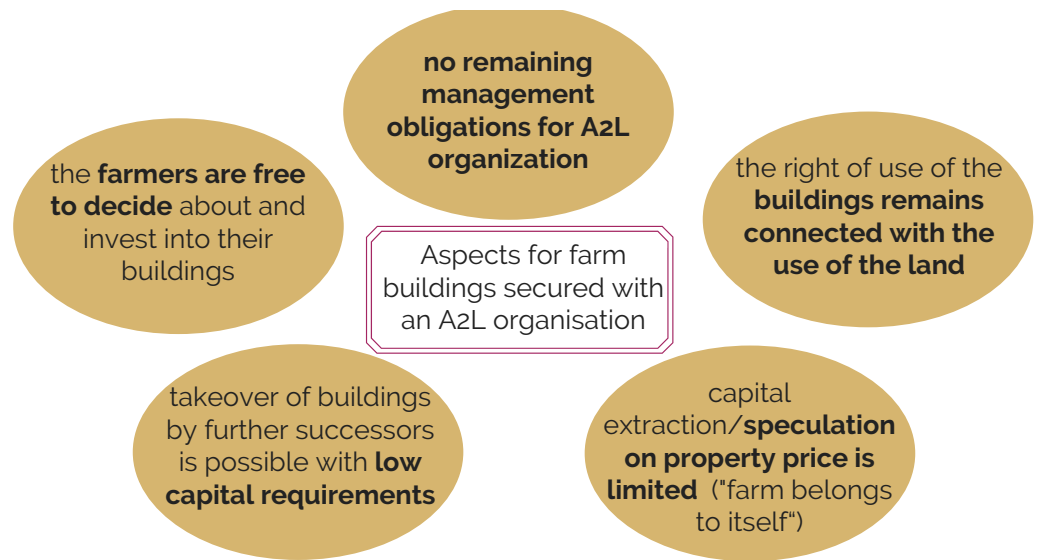
Task 4: Final evaluation and report

- Interpret action results in the light of initial requirements
- Document process, realised solutions and outcome



RESULTS

The analysis of the **ideal outcome for farm buildings, which are part of a farm succession facilitated by an access to land organisation** resulted in 5 important aspects to be considered (see figure)



In the frame of this action research, Kulturland eG documented extensively the experience of the Luzernenhof farm purchased in 2014. This is the cooperative's most advanced example, which best illustrates the possibilities to realise all five aspects described above. To do so, Kulturland decided to establish a separate legal entity for land ownership in the form of a company limited by shares (Kommanditgesellschaft) and a second legal entity for the farm buildings, which is controlled by the farmers. This scheme encountered initial opposition the local authority, which denied purchase permission considering the effort a "tricky attempt for land speculation". The fear was that farm buildings could be separated from the land and turned into residential housing at a profit.

The issue of separating land and buildings was resolved by legally reconnecting the two properties in the land register. Three provisions were taken:

- 1) **A pre-emptive purchasing right** for both parties in the case the other property is sold
- 2) **Guaranteeing the active farmers a right to housing** in the residential buildings
- 3) **Guaranteeing the active farmers a right to use the commercial buildings**, including the right of way to reach these facilities from the street and from the residential building

The study of this case supported progress in ongoing stakeholder discussions on farm purchases dissociating land and buildings, providing a concrete basis to collectively analyse the strengths and weaknesses of the model. Documenting the process of "learning-by-doing" by Kulturland eG also helps legitimise the cooperative as an innovative and increasingly expert actor on non-speculative land ownership models.

TIPS FOR PRACTICE!

BUILDING LEGITIMACY

- **Taking into consideration the specific needs of the farmers** is key to build the trust to work out a contractual solution
- **Patient and sustained dialogue** with authorities is required for them to understand the model
- **Involving other established actors**, like the Mietshäuser Syndikat in the Luzernenhof farm case brought valuable expert knowledge on collective-ownership models for properties

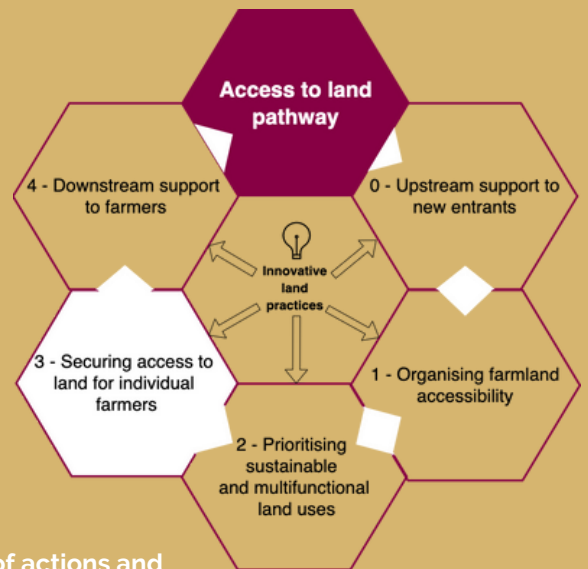
OBSTACLES FOR ACTION

- **Legal parameters with regard to purchasing farms are very restrictive in Germany.** Usually the "bad actors" (external investors) come up with creative "solutions" in order to buy farms as an object of speculation. Hence legal authorities are very skeptical concerning innovative ownership schemes.
- **Balancing the needs of the access to land organisation against the needs of the entrant farmers** requires careful consideration, as the burden of the farm purchase price will have to be shared between the successors and the cooperative.



AN ADAPTED FRAMEWORK FOR GENERATIONAL HAND-OVER OF FARM REAL ESTATE

This action relates to securing farmland for individual farmers. Kulturland leverages its capacity to finance the farmland through collective investment. Furthermore, it establishes creative legal structures for the farm buildings that allow farmers to purchase them without upfront capital. For this, Kulturland grants farm entrants a personal guarantee amounting to 20-30% the buildings price which enables unlocking bank loans for tenants to acquire the buildings. Furthermore, it tackles the issue of downstream support to farmer and upstream support to future new entrants by ensuring through the established contracts that following generations can also purchase the farm buildings for a fair price and current farmers can receive compensation for investments they made in the buildings upon retiring.



What is the "Access to land pathway"? Innovations use a wide range of actions and strategies to provide effective access to land. The pathway provides a typology to categorise innovative practices' different modes of action.

WHO WE ARE

KULTURLAND COOPERATIVE

Kulturland is an intermediary between the farms and society, acting as a "legal tool", enabling community-funded purchases of land. The cooperative enables customers and supporters in the vicinity of the farm to invest money by buying shares in the cooperative. This money is to buy the land, making it available to farm permanently for a moderate fee.

Learn more at: www.kulturland.de

ACCESS TO LAND NETWORK

The Access to land network brings together grassroots organisations from across Europe to share experiences and promote the significance of access to land for agroecological transition and generational renewal. Established in 2012, it functions as an informal network of about 15 organisations.

Learn more at: www.accesstoland.eu

Young and old generation on Ries Hof © Kulturland eG



CONTACT

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