



LPA-GGv legal tax



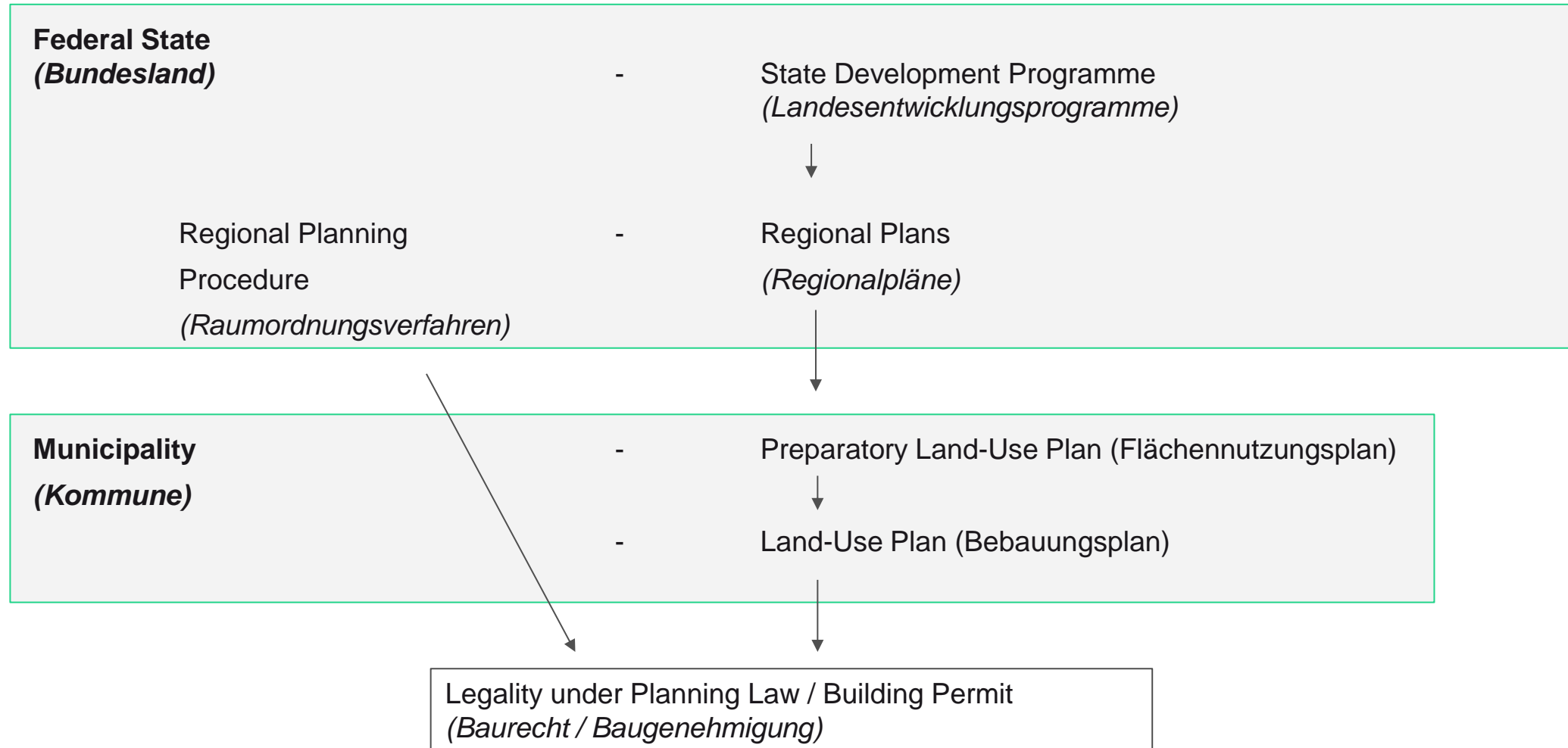
Regional Planning Procedures and Support Schemes for Greenfield PV Plants

16 MAY 2019



Regional and Local Planning in Germany

OVERVIEW



Regional and Local Planning in Germany

PV AND WIND FARMS

Greenfield PV Plants (PV - Freiflächenanlagen)

Generally not permissible
(grds. nicht zulässig)



Preparatory Land-Use Plan / Land-Use Plan
(Flächennutzungsplan / Bebauungsplan)
(→ SO / Sonderbaufläche / Sondergebiet PV
Freiflächenanlagen)

Limitations include, inter alia:

Assessment / Consideration / Compensation

- nature conservation (Naturschutz)
- species protection (Artenschutz)
- ...

Undesignated Outlying Area (Außenbereich)

Wind Farms

Generally permissible
(grds. zulässig (privilegiert))



Allocation / Management via Regional Planning /
Preparatory Land-Use Plans:

- Priority Areas (Vorranggebiete)
- Restricted Areas (Vorbehaltsgebiete)
- Suitable Areas (Eignungsgebiete)



WEA (only) permitted there

No Land-Use Plan required, further assessment /
consideration / compensation included in
BlmSchG permit

Regional and Local Planning in Germany

PROS AND CONS

Greenfield PV Plants **(PV - Freiflächenanlagen)**

- Planning depends on the goodwill of the municipality
- Large areas required for large-scale PV, and enough room for the municipality, nature conservation, ...
- Joint planning by neighbouring communities is possible, although unusual
- Project-based Land-Use Plan (vorhabenbezogener Bebauungsplan): Applicant bears costs of planning and development
- Tax income for the municipality

Undesignated Outlying Area **(Außenbereich)**

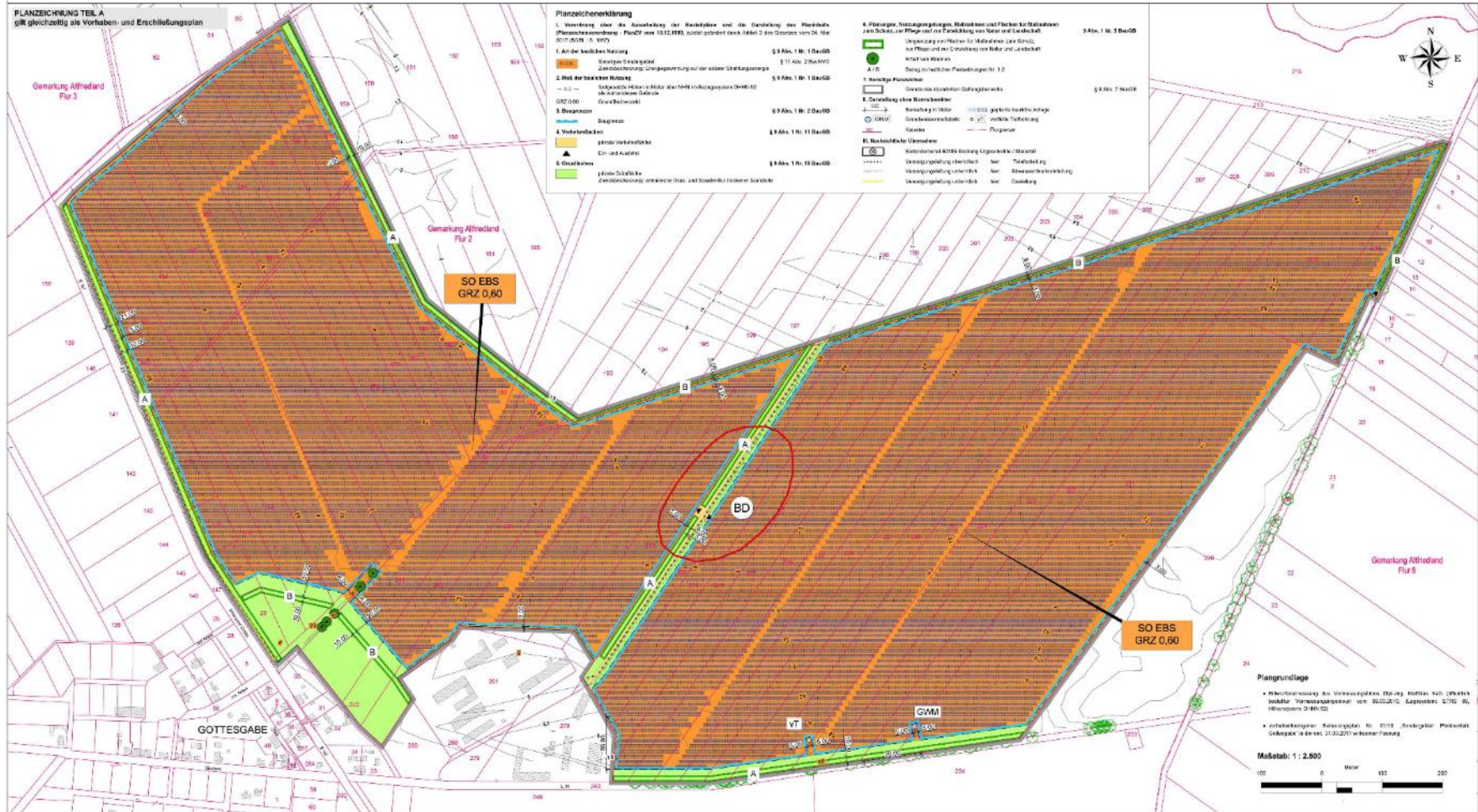
Wind Farms

- Planning of areas designated for wind farms is mandatory (1,5%)
- Easier to create „clusters“ across several municipalities
- Top-down process, but different procedures and requirements depending on the Federal State
- Planning is transferred in large parts away from the municipalities to the regional planning institutions
- Regional planning became subject to judicial review
- Years of legal proceedings followed, creating uncertainty and impasses
- Resistance to wind turbine finds other ways (minimum distance rules, ...)

Regional and Local Planning in Germany

EXAMPLE LAND-USE PLAN

SATZUNG DER GEMEINDE NEUHARDENBERG, OT ALTFRIEDLAND ÜBER DIE 1. ÄNDERUNG DES VORHABENBEZOGENEN BEBAUUNGSPLANS NR.01/10 "SONDERGEBIET PHOTOVOLTAIK GOTTESGABE"



- ▶ 120 ha PV
- ▶ Cropland (*Ackerfläche*)
- ▶ 2 ha for compensation measures / 10 ha green area
- ▶ Project pending
- Suitable area is key

Support Schemes for Greenfield PV Plants

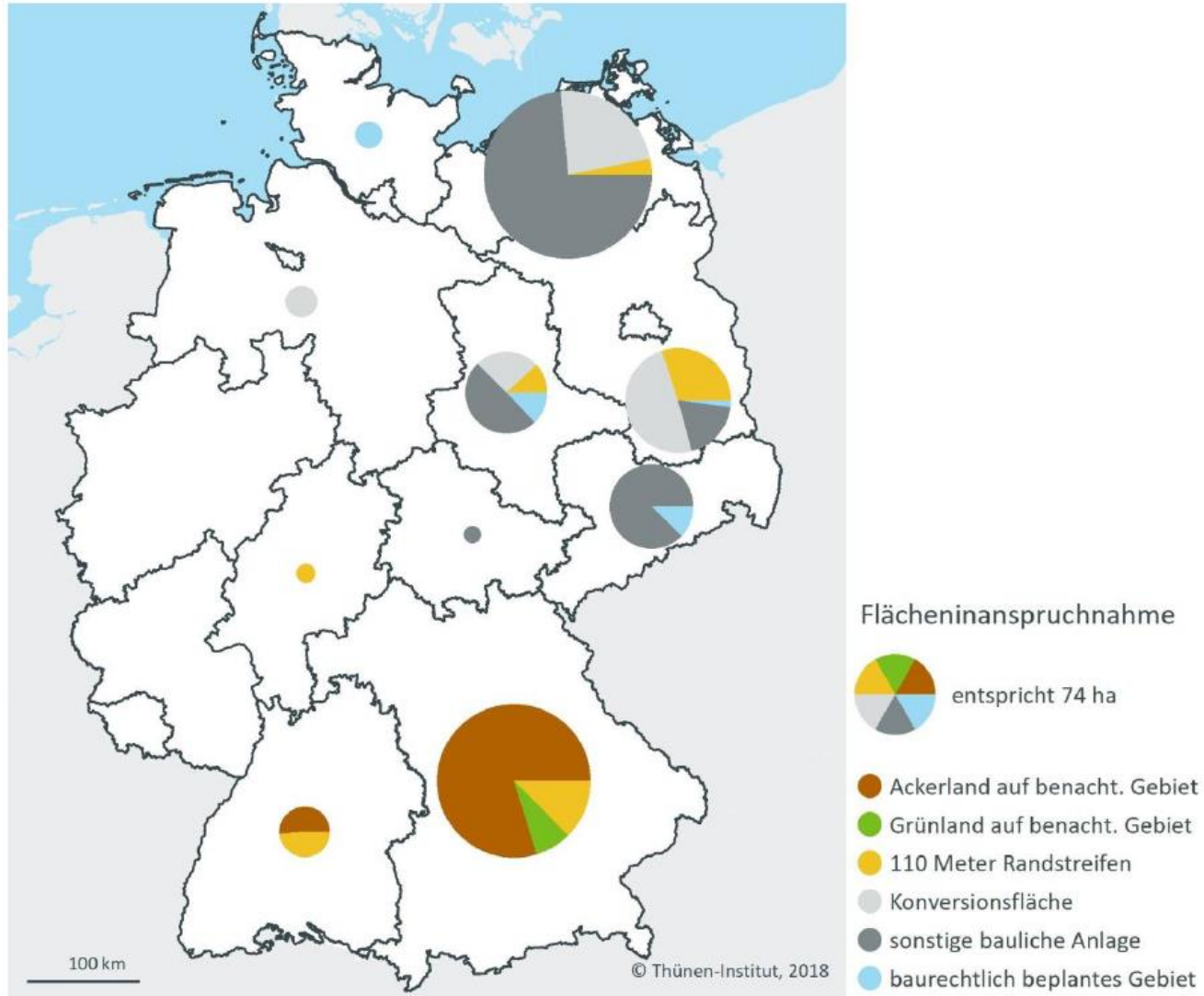
OVERVIEW

EEG

- Successful tender required for PV plants > 750 kW to qualify for market premium
- Maximum bidding volume 10 MW per PV plant (greenfield)
- Further requirements:
 - PV plant is subject to a specific land use plan and outside natural reserves
 - PV plant is located on a
 - sealed surface
 - conversion area (used for business, traffic, housing, military)
 - area within 110 meters from a highway or railway
 - plot owned/administered by the Federal Republic
 - area used as cropland and located in a „disadvantaged region“
- Different for PV on buildings and „physical structures“ (*bauliche Anlage*), including landfills, roads/runways ...
- Recent bid prices (average): 4,8 Ct/kWh (February) and 6,59 Ct/kWh (March)
- Tender volume in 2019: PV 1.475 MW, 250 MW „innovation“, 400 MW PV+wind

Support Schemes for Greenfield PV Plants

OVERVIEW



Planning and Support Schemes for Greenfield PV Plants

SUMMARY

Regional and Local Planning

- Municipalities can and must be convinced.
- Finding the appropriate location is key, and may be difficult for „huge“ greenfield PV plants. Cooperation between municipalities.
- A shift to regional planning would raise the pressure, but might result in even more legal proceedings, and less goodwill by municipalities.

Support Scheme

- EEG system limited to PV plants (greenfield) up to 10 MW
- Larger PV plants on buildings and physical structures
- PPAs increasingly attractive, but market size & development unclear



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- ▶ Qualified as German lawyer in 2006
- ▶ Postgraduate degree in Energy and Mining Law, University of Bochum 2006/2007
- ▶ 5 years of public commercial law at Bird&Bird LLP, Düsseldorf and Munich (2007-2012) with a focus on energy law
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