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FAO recommendations on land consolidation legislation

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Abstract

Most countries in Western Europe have a long tradition for implementing land consolidation projects. In Central and Eastern Europe, land reforms from 1990 on in most countries resulted in farm structures characterized by excessive land fragmentation and small average farm sizes. Most CEE countries have introduced land consolidation instruments to address the structural problems. FAO has from 2000 on supported land consolidation in the region.

The development and adoption of solid and operational land consolidation legislation is in all countries a corner stone in the process towards a national programme. Most of the legal discussions are with few variations the same in all the countries preparing for a national land consolidation programme. FAO has during recent years acknowledged a significant need for an overview of European good practice in land consolidation legislation as well as for generic legal guidance. FAO has in 2018 conducted a regional study to identify European good practice on land consolidation legislation and will in 2019 publish a Legal Guide on Land Consolidation. The primary objective of the Legal Guide is to facilitate the creation and development of the legal frameworks for land consolidation in Europe and Central Asia, through the promotion of the good European land consolidation regulatory practices and fully in line with the VGGT.

Key Words:

Legal Guide – Land consolidation legislation – Multi-functional land consolidation –
Smallholder support – Europe and Central Asia.



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1. Introduction

Most Western European countries have a long-lasting land consolidation tradition, often with roots that go back two or three hundred years. During the decades after the Second World War, land consolidation instruments were important elements in state policies to support agricultural development through the reduction of land fragmentation and the facilitation of the enlargement of productive farms. From the 1980s, the objectives have gradually shifted in most countries to those of a tool for implementation of publicly initiated projects (such as on nature restoration, environment, flood protection and large-scale linear infrastructure) and, in some countries, to support comprehensive and integrated rural development projects. Land reforms were at the beginning of transition after 1989 high on the political agenda in most Central and Eastern European (CEE) countries (Lerman et al., 2004). In some countries, land reforms resulted in a complete break-up of the large-scale collective and state farms, while in other countries the farm structures fundamentally remain the same (Hartvigsen, 2013a). In most CEE countries, however, land reforms resulted in farm structures dominated by small and fragmented farms, which are not competitive in the globalized economy. Most governments throughout Central and Eastern Europe have from the early 1990s and onwards recognized the need to address these structural problems. This has led to the introduction of land consolidation instruments (Hartvigsen, 2015).

The Food and Agriculture Organization of the United Nations (FAO) has in Central and Eastern Europe since 2000 played a leading role in supporting introduction of land consolidation and in the development of national land consolidation programmes (Hartvigsen, 2019). FAO has so far implemented field projects in 11 countries in the region. Development and adoption of solid and operational land consolidation legislation is in all countries a corner stone in the process towards an operational national land consolidation programme.

In order to enhance its support to the member countries on land consolidation, FAO conducted a regional legal study in 2018 to identify good practice in land consolidation legislation involving European countries with ongoing land consolidation programmes. The main outcome of the study will be a FAO Legal guide on land consolidation in line with the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) to be published during 2019. The guide is intended to support directly the preparation of land consolidation legislation at the country level and will as well be applied in ongoing and future FAO projects. Governments with on-going land consolidation programmes should also find the guide useful, as it will allow comparing their legal systems with European “good practice” and learn from the systems and legislation in other countries.



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The paper will present the background for the regional study, the methodology used, the main elements in the Legal Guide on land consolidation and the key recommendations from the forthcoming guide.

2. FAO experiences from support to land consolidation in Europe and Central Asia

Shortly after the Food and Agriculture Organization of the United Nations (FAO) was founded in 1945, the organization had started to support the member countries addressing structural problems in agriculture with land fragmentation and small holding and farm sizes through the development of land consolidation instruments (Binns, 1950).

2.1 Land fragmentation and small farm sizes in most countries in Central and Eastern Europe

In the late 1990s, land fragmentation and land consolidation re-appeared on the agenda, this time in the context of Central and Eastern Europe where land reforms from the beginning of transition in the 1990s had led to excessive land fragmentation and small farm sizes in most of the countries (Hartvigsen, 2013a and 2013b). In countries such as Albania, Moldova, the ex-Yugoslavia countries and the three Trans Caucasus countries, the average sizes of arable agricultural land parcels are around 0.3 ha and most farms have a size of 1-3 ha. The structural problem with excessive land fragmentation and small farm sizes is hampering agriculture and rural development and hence also most initiatives in support of development. Small-scale agriculture production is ongoing in subsistence and semi-subsistence farms where most of the production is consumed in the household and the farms have weak access to markets and food value chains. Land fragmentation and small farm sizes are also among the complex root causes to out-migration from rural areas and in several countries in the region a main reason for arable land being abandoned.

Supporting smallholders and family farms is one of four priorities for FAO in Europe and Central Asia, confirmed by the FAO Regional Conference in 2018. FAO established in the region in 2014 the Regional Initiative on Empowering Smallholders and Family Farms for Improved Rural Livelihood and Poverty Reduction. The Regional Initiative is building on the legacy of the International Year of Family Farming in 2014 and will be supporting the UN Decade of Family Farming 2019-2028. FAO support addressing land fragmentation and small farm sizes is included under the programmatic umbrella of the Regional Initiative.



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2.2 FAO support to land consolidation in Europe and Central Asia (ECA)

Governments throughout the region have mostly recognized the need to address the structural problems with land fragmentation and small farm sizes hampering agriculture and rural development. This has led to the introduction of land consolidation instruments.

Five minimum criteria need in FAO's view to be in place before a national land consolidation programme is established and operational: i) land consolidation, as a land management instrument, has been embedded in the overall land policy of the country, ii) a legal framework for land consolidation has been adopted, iii) a public lead agency for land consolidation has been established and delegated the task to manage the national land consolidation programme, iv) secured funding on an annual basis allows the lead agency to plan activities years ahead, and v) technical and administrative capacity has been developed to implement land consolidation projects in the field and to manage the programme (Hartvigsen, 2015). Nine ECA countries already have ongoing land consolidation programmes, meeting all the five criteria, while additional 13 countries have introduced land consolidation but does not yet have an operational national programme.

FAO has as mentioned played a leading role in supporting land consolidation in Central and Eastern Europe from 2000 on (Hartvigsen, 2019). The FAO regional land consolidation programme has three main pillars: i) technical guidelines, ii) field projects in the programme countries, and iii) the informal network of land tenure professionals interested in land consolidation, land banking, land market development, etc. (LANDNET). During the 2000s, FAO prepared and published three technical publications to give guidance for land consolidation activities in CEE (FAO 2003, 2004, 2008). The focus was on the initial introduction of land consolidation in the countries and on funding opportunities under the Rural Development Programmes with EU co-financing.

Since the first field project, started in Armenia in 2004, FAO has so far supported 11 countries in CEE, related to land consolidation. The starting point for the technical support is usually the recognition in the country of the need to address land fragmentation and small farm sizes and a vision to develop an operational national land consolidation programme. In countries such as Armenia, Serbia, Albania, Bosnia and Herzegovina and Azerbaijan, FAO has provided the initial support to introduce land consolidation in the country (Hartvigsen, 2015). The projects in these countries have usually had three main components: i) drafting of a national land consolidation strategy, ii) land consolidation pilot project, and iii) training and capacity development.



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BOX 1 – Development of land consolidation legislation in North Macedonia

The farm structure in North Macedonia is dominated by small family farms with an average farm size of 1.6 ha and an average of seven land parcels per agricultural holding with excessive fragmentation of both landownership and land use. The land consolidation instrument was introduced with technical assistance from the Netherlands during 2008-2012 where two rounds of small-scale pilots were implemented and the National Strategy on Agricultural Land Consolidation in the Republic of North Macedonia for the period 2012-2020 was developed and adopted in March 2013. The Ministry of Agriculture, Forestry and Water Economy (MAFWE) prepared the Law on Consolidation of Agricultural Land during 2012-2013, adopted by the Parliament in December 2013. Five by-laws were prepared during the first half of 2014. In 2013, MAFWE also established a Land Consolidation Department with responsibility for the preparation and operation of a national land consolidation programme. The adoption of the law opened for the implementation of land consolidation in two different approaches, majority-based where the qualified majority of the landowners in the project area approve the Re-allotment Plan and a voluntary approach where all included land transactions are agreed by the landowners.

With the support from FAO from 2014 to 2017, the legislation was tested in two land consolidation pilots, one with a majority-based approach and one in a voluntary approach. As the pilots revealed several obstacles and bottlenecks in the legislation, a detailed legal assessment was carried out including for compliance with VGGT and an extensive package of legal recommendations was provided to the Ministry. Although, both pilots were successful in terms of the Re-allotment Plans, due to the legal constraints, the full implementation of the pilots in the field was suspended until the legal obstacles were mitigated through amendments to the legislation. Through the EU funded project Mainstreaming of the National Land Consolidation Programme (MAINLAND), supporting the first round of land consolidation projects under the national programme, FAO extensively supported the Ministry in the preparation of the necessary legal amendments and launched the first 10 field projects in 2018/19.

Although the legal framework introducing land consolidation as an instrument was adopted in 2013 and initially amended with FAO support in 2018 to facilitate full implementation of the National Land Consolidation Programme, the discussions on the improvement of the national legislation are still ongoing. Considering that land consolidation is a comprehensive instrument, which requires involvement and coordination between various institutions (responsible for agriculture, environment, spatial planning, property registration etc.), the harmonization of the national legislation regulating other relevant issues is also very important for establishment of the fully operational national land consolidation programme.

At the same time, the fact that land consolidation tackles the constitutionally granted right to private ownership, existence of agricultural land in state ownership and the complicated situation with the formal and informal tenure rights evident from the field, the implementation of land consolidation projects requires constant careful reconsideration of the legal mechanisms for identification, adjudication of ownership rights and protection of the rights of the participants in the land consolidation projects. The implementation of the 10 ongoing land consolidation project in North Macedonia has not only proven to be an efficient tool for addressing land fragmentation, but also to be an effective tool for identification of the gaps in the legislation. The latter is not only connected to the process of land consolidation itself, but also to issues like property registration, inheritance, women's access to land etc.

In other countries, FAO provided support after other development partners had contributed with the initial support to introduce land consolidation. In North Macedonia, in 2014-17, FAO supported the preparation of the national land consolidation programme by implementing two pilots to test the 2013 Law on



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consolidation of agricultural land before scaling up (see Box 1), and provided additional training and capacity building. From 2017 to 2020, FAO is supporting the implementation of the first round of land consolidation projects under the national programme through the EU funded project Mainstreaming of the National Land Consolidation Programme (MAINLAND).

2.3 Legal framework for land consolidation

The development and adoption of solid and operational land consolidation legislation is in all countries a corner stone in the process towards a national programme. However, it has proven to be very difficult to adopt fully operational legislation in the first attempt and several countries have made major amendments to their legislation after implementing the first projects under the national programmes. In Lithuania, the land consolidation legislation was initially adopted in 2004 and amended in 2010 after the first wave of projects implemented 2005-2008 (Hartvigsen, 2015). In North Macedonia, the Law on consolidation of agricultural land was as mentioned adopted in 2013, tested in pilots during 2014-2017 and amended in 2018 based on pilot experiences (see Box 1 and Hartvigsen, 2019). Most of the legal discussions are with few variations the same in all the countries preparing for a national land consolidation programme. FAO has during recent years acknowledged a significant need for an overview of European good practice in land consolidation legislation as well as for generic legal guidance on developing land consolidation legislation in countries in Europe and Central Asia.

3. Study on European good practice on land consolidation legislation

FAO has in 2018 conducted a legal study to identify European good practice for land consolidation legislation and will in 2019 publish a Legal Guide on Land Consolidation based on the findings of the study.

3.1 Study methodology and countries selected

The work on the Legal Guide was launched by FAO in January 2018 at a kick-off meeting of a working group, involving international land consolidation experts from several European countries. It was decided to establish a list of countries where the land consolidation regulatory practices would be analysed in detail. The list of countries included Denmark, Finland, Germany, Lithuania, Netherlands, Serbia, Spain (Galicia) and Turkey. The study was conducted in cooperation with LANDNET, the informal technical network of land tenure professionals working with land consolidation, land banking, land market development and related topics (Van Holst et al. 2018). LANDNET is facilitated and supported by FAO.



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The countries were selected based on several criteria, such as: i) long land consolidation tradition, ii) specific approach (illustrating the diversity of land consolidation practices in Europe), iii) relevance for FAO programme countries in Europe, and iv) importance for a particular group of countries, sharing similar historical background (Ex-Yugoslavia countries, Baltic countries, CIS countries, etc.). Besides the regulatory practices of the countries from the main analysed countries, the Legal Guide also builds on some specific aspects from a number of other European countries (e.g. from France, Norway and Poland).

In each of the aforementioned countries, contacts with key experts, mostly LANDNET participants, working in the field of land consolidation, were established. Initially, the selected key persons were requested to provide basic information on the regulatory land consolidation framework in their home countries. Such information included: i) list of legal acts, regulating land consolidation in the country, ii) hierarchy of such legal acts, iii) sources, where the legal acts could be found, iv) English translations of legal acts (if available) and v) additional information and eventual clarification and comments on the matter as requested.

After having received the initial information, the authors of the Legal Guide, in co-operation with the key persons in each respective country, analysed the legal frameworks in all the selected countries and prepared summary files for each country. The study process consisted of desk research and interviews and consultations with the key persons. The objective of drafting the summary files was to collect relevant country information and to ensure its comparability with the information from other countries. Therefore, all summary files followed the same standardised structure, covering the key legal issues of land consolidation. The Legal Guide has been drafted based on the information contained in the summary files and the respective legal acts, regulating land consolidation in the different countries.

The key recommendations of the Legal Guide were presented and discussed at the 10th International LANDNET Workshop, Regional Consultation on Land Consolidation Legislation, in Skopje, North Macedonia during 19-21 June 2018. Around 140 workshop participants from 30 countries contributed with their comments and proposals to the Legal Guide.

The draft Legal Guide was amended taking into account the input from the LANDNET / Regional Consultation Workshop. Subsequently, the amended draft Legal Guide will during spring 2019 undergo an external review procedure, involving the country key persons as well as other land consolidation experts from the LANDNET and UNECE WPLA networks, who volunteered to take part in the review process. After the external review, the Legal Guide will be finalized and published during 2019.



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3.2 Main findings from the study showing the diversity of European practice

Land consolidation has a long-standing tradition in Europe, although the story of this instrument in each country is quite different. Some countries like Denmark, Finland or Germany have applied land consolidation for centuries or decades. Other countries, especially in Central and Eastern Europe, have introduced land consolidation after the beginning of transition in 1990. The approaches to land consolidation are different in specific European countries, while each of them tend to solve their particular problems and address their priorities with the help of their land consolidation instruments.

For example, the objectives of land consolidation vary from country to country, even if some key trends may be identified. The European land consolidation practice shows that land consolidation in most countries is no longer understood as a single-purpose land management instrument aiming at agricultural development, but has shifted towards a tool, used for a variety of purposes, such as agricultural and community development, nature restoration and for large-scale infrastructure projects, etc. Evidently, each country defines its own objectives for land consolidation, taking into account the local situation, needs and priorities.

It shall be noted, that in most of the cases, European countries apply land consolidation, which is in respect for and protection of legitimate tenure rights, sustainability and environmental protection, a participatory approach, and transparency principles.

As regards the approaches of land consolidation, there is a wide diversity of models in Europe. In some countries, like in the Netherlands, legal acts provide even for several distinct procedures of a different nature, ranging from voluntary parcel exchanges, voluntary and majority-based land consolidation to a state imposed land consolidation. While in other countries, only one model of land consolidation is established, like voluntary land consolidation in Denmark and Lithuania and majority-based land consolidation in Poland and Czech Republic. Therefore, it could be stated that European countries apply different methods to achieve the land consolidation results.

As regards the institutional infrastructure for land consolidation in Europe, it also varies largely from country to country. However, again key common elements of such infrastructure could be identified. According to European practice, in many countries the formation of land consolidation policy is performed by the Ministry responsible for agriculture. The implementation of such policy is usually performed by a specific department or agency under the Ministry. However, in some countries land consolidation falls within the competence of cadaster agencies (for example, this is the case in Finland). In the following, the term “Lead Agency” is used for the public institution overall responsible for the land consolidation programme and the implementation of projects as part of the programme.



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Concerning the implementation of the field works (re-allotment planning, land valuation, land surveying, etc.), the countries also apply different approaches. On one hand there are countries, where the field works are implemented exclusively by the staff of the public body, responsible for the implementation of the land consolidation programme, like in Finland. On the other hand there are countries, where the field works are implemented both by the staff of the respective public entity as well as by contracted private service providers, like it is the case in Denmark.

Another essential issue, where the practice of the European countries varies largely regards the entity, which approves the Re-allotment Plan showing the land ownership in the project area after the approval and implementation of the project. If, for example, in Norway and Denmark this is made through a judicial decision, in countries like Germany and Lithuania the Plan is approved by an administrative body. Furthermore, the competences of such decision-making bodies approving the Re-allotment Plan vary largely. In some cases, like in Denmark, they have powers not only to approve the Plan, but also to adjudicate rights during the land consolidation process.

As regards the decision making by and the representation of the landowners in the land consolidation process, in most of the analyzed countries, public meetings with the stakeholders are organized and specific representative bodies, like a Committee of Stakeholders, are elected or even established in the form of legal entities. Public meetings are not only informative, but this is also a decision taking place, where landowners may vote on the key issues regarding the land consolidation project (for example, on the approval of the Re-allotment Plan, election of the body, representing the general interest of the landowners, etc.).

As concerns the process of land consolidation, it also varies largely from country to country. However, the study has revealed that most of the studied countries implement land consolidation projects in three generic phases, which can be labelled as i) feasibility phase, ii) re-allotment phase and iii) registration and implementation phase. The process typically starts with a request (application) to launch a land consolidation project. Usually, the project may be initiated both by private and public persons, interested in land consolidation in a particular area, such as the landowners and farmers, the Lead Agency, etc. The duly submitted application triggers the first phase of the land consolidation project, the feasibility study. The results of this study determine if project implementation should continue through the land re-allotment phase. The decision to start the re-allotment phase is usually taken by the Lead Agency and the drafting of a Re-allotment Plan is initiated. Once the landowners agree with the solutions proposed in the Re-allotment Plan, it is approved by the competent authority, such as the Land Consolidation Commission. After the approval of the Re-allotment Plan the phase of project implementation and registration is launched where



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the land rights after the approval of the project are registered in cadaster and land register and improvement of agricultural infrastructure, if included in the project design, is constructed.

Monitoring and evaluation of the land consolidation programmes and implemented projects is another important aspect. However, this aspect seems often overlooked even in countries, where there is a long tradition for land consolidation.

In all analyzed countries, an administrative and judicial review of the process is ensured. On one hand, the respective decisions or inaction of a public body may be objected. Administrative remedies typically allow to lodge complaints to the institution implementing a specific function, related to land consolidation. Most often the administrative remedies also include a possibility to lodge complains to the institution, which supervises the implementing institution. Finally, legal acts provide for a right to appeal the decisions of the supervising institution to the court.

4. Legal Guide with FAO recommendations on land consolidation legislation

The Legal Guide will provide recommendations on the content and structure of the land consolidation legal framework. The key recommendations are provided for in separate boxes and concern the main aspects, which should be taken into account while drafting or developing land consolidation legislation. In all cases, the recommendations provided for in the Legal Guide should be considered in the light of local conditions and the existing national regulatory framework. In addition, not only these recommendations should be adapted to the specificity of each country, but also, the evolutionary stage of land consolidation in each country should be taken into account when using the Legal Guide. While in some countries, land fragmentation and agricultural development remain the main priority, in others environmental issues might be the key driver of land consolidation projects, etc. This Chapter briefly provides an overview of the key recommendations provided for in the Legal Guide.

4.1 The purpose of the Legal Guide

The primary objective of the Legal Guide is to facilitate the creation and development of the legal frameworks for land consolidation in Europe and Central Asia, through the promotion of the good European land consolidation regulatory practices. It also aims to facilitate the implementation of VGGT in the field of land consolidation providing more detailed practical guidance.

FAO experiences with supporting development of national land consolidation programmes in FAO member countries in the region show, as discussed in section 2.3, that decision makers in countries introducing or developing land consolidation regulatory frameworks, preparing national land consolidation strategies,



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laws and by-laws often need a comprehensive concentrated guidance document, which would cover the majority of land consolidation issues, in particular, based on the practice of other countries (Hartvigsen, 2019). Therefore, the Legal Guide should contribute to the facilitation of comprehension of land consolidation in general and of its regulatory specificities in particular.

The Legal Guide presents the key aspects of land consolidation and respective regulatory solutions applied in the analyzed countries. It provides recommendations, which could be used when developing national legal frameworks for land consolidation. Besides the core land consolidation aspects, the Legal Guide also covers issues, which are closely related to land consolidation. Such aspects are considered in the light of their linkage with the land consolidation instrument, as, for example, is the case with land banking, expropriation, taxation, etc.

The Legal Guide is primarily intended for decision makers and legal and land tenure professionals working with agricultural land administration and management issues. It may be used both by those, who already work with land consolidation at national and/or international level, as well as those, who may eventually work on land consolidation in countries, where this instrument is yet to be introduced. This Legal Guide may also be useful for other society members interested in the process of land consolidation including individual landowners and farmers, civil society, academia etc.

4.2 Land consolidation to support achieving the Sustainable Development Goals

The 2030 Agenda for Sustainable Development was adopted by all United Nations member states in 2015 with 17 sustainable development goals (SDGs) and 169 associated targets. This requires reflection to ensure that all development initiatives related to land tenure and beyond in the best possible way are contributing to achieving the SDGs. In addition, land consolidation policy and legislation should be designed to contribute to achieving the SDGs and this requires a more programmatic and integrated approach.

Implementation of land consolidation can at the country level contribute to achieving several SDGs and targets. The wider the objective of the land consolidation instrument is (see section 4.4), the more it can in principle contribute. In the following are mentioned a few key SDG targets to which land consolidation strongly contributes. As discussed in section 2.1, the structural problem in agriculture with excessive land fragmentation and small farm sizes is hampering agriculture and rural development and hence also most initiatives in support of development. By addressing these problems, land consolidation instruments strongly contribute to achieving the ambitious SDG target 2.3 on doubling the agricultural productivity as well as income of small-scale food producers by 2030. Another key SDG target to which land consolidation should strongly contribute is target 1.4: By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and



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control over land and other forms of property. Among the outcome of land consolidation projects are formalized and protected land rights, directly contributing to target 1.4. Land consolidation should also contribute to target 5.a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property (FAO, 2018). One way to doing this is to ensure that land ownership after the land consolidation project is registered in the name of both spouses.

4.3 Land consolidation instruments and legislation to be fully in line with VGGT

The landmark Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) were endorsed by the Committee on World Food Security in 2012 after negotiations involving a broad range of stakeholders in addition to States, from civil

Where appropriate, States may consider land consolidation, exchanges or other voluntary approaches for the readjustment of parcels or holdings to assist owners and users to improve the layout and use of their parcels or holdings, including for the promotion of food security and rural development in a sustainable manner.
(VGGT, paragraph 4.13.1)

society, professional organizations, civil society, academia and the private sector. The VGGT is the first instrument that focuses on tenure issues, and draws both from international law (primarily human rights law) and from best practice. FAO is committed to base all its work on tenure on the VGGT.

The VGGT devote an entire guideline to land consolidation and land banking (section 4.13). Their wording that “states may” use land consolidation,

exchanges and “other voluntary approaches” gives rise to the following interpretations:

- Land consolidation may be a good solution for some countries, but it is not seen as something that all countries necessarily should embark on. However, it should be understood that countries, that do decide that land consolidation is useful or necessary, should then heed the guidance provided elsewhere in section 4.13 and elsewhere in the VGGT.
- It is ambiguous whether the wording of “other voluntary approaches” refers to exchanges only or also to land consolidation. A literal reading would suggest the latter but on the other hand it is known that a number of countries use land consolidation that is based on the agreement of the majority of participants, and hence against the will of the minority.

FAO believes that in most cases, voluntary approaches are preferable and this is what it generally recommends. It is more in line with the human rights principles it seeks to promote and does not risk breaching anyone’s tenure rights. However, it also recognizes that in certain cases it may be more efficient to undertake what it calls a “majority based” land consolidation (see further discussion in section 4.6). In



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such cases, it insists on a qualified majority of at least two thirds of the landowners who control at least two thirds of the surface area; in some cases it recommends an even higher majority of three fourths.

Voluntary land consolidation does not need extensive safeguards, as the explicit agreement (written consent) of each and every landowner is required. Such safeguards are needed when there is interference with property rights and therefore FAO has regard to safeguards used for expropriation (which however is a much more drastic measure as it requires no consent from any landowner). The safeguards mentioned in VGGT guideline 4.16 on expropriation therefore become relevant, including the insistence of international human rights law that are generally understood to include the following: 1) there is law authorizing it; 2) the expropriation is in the public interest and 3) there is full, fair and prompt compensation paid.

The question of “public interest” in land consolidation may be justified in different ways. The overall productivity and production gain of the farms involved in land consolidation is in the public interest and everyone in an area benefitting also indicates a public interest because of the numbers involved. More potentially controversial is a potential situation when a single or few individuals or legal persons would benefit, and the “public interest” is justified in terms of overall economic growth, taxes paid or employment created. However, here again, state practice differs and a number of jurisdictions (e.g. USA and Germany) would recognize this as public interest. Other jurisdictions would not.

Guideline 13 contains a number of explicit principles that echo the implementation principles in paragraph 3B of the VGGT. These include in particular gender equality, environmental sustainability, transparency, participation and consultation. These principles are not only a reflection of universal human rights; they are necessary for a successful land consolidation project.

The principle that is only found in guideline 13 and is specific to land consolidation is the “at least as well off” principle, which entails that no one can be worse off, and that is the minimum; the aim must be to find gains for each and every participant in land consolidation. This is a fundamental principle for land consolidation and enhances the protection that is already provided in the general principles of the VGGT (section 3A) to respect, protect and safeguard all legitimate tenure rights.



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4.4 Principles of land consolidation

In order to ensure the efficient application of land consolidation in the country, it should as discussed in section 4.3 be respectful of the fundamental values promoted by the VGGT and based on the key principles of the good European land consolidation practice. The aforementioned values and principles should be reflected in the national legal framework, regulating land consolidation. The Legal Guide identifies six key principles of the land consolidation legal framework: i) the respect for and protection of legitimate tenure rights; (ii) the “at least as well off” principle from VGGT; (iii) the sustainability and environmental protection; (iv) the participatory approach; (v) gender equality; (vi) transparency.

The respect for and protection of legitimate tenure rights is a core principle for land consolidation. States should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights (VGGT 3.A). Therefore, land consolidation should not only consider formally registered tenure rights, but also respect and protect legitimate land tenure rights, which are not formalized or their formalization has not been completed. For example, in the land consolidation process, land tenure rights of unregistered (informal) legitimate owners, heirs, unknown or inaccessible owners should be considered and respected.

In accordance with the "at least as well off" principle, the situation of any of the right holders (landowners, lessees, mortgagees, etc.), participating in a land consolidation project may not be worsened as a result of the implementation of the project. For example, it means that it should be fully ensured that the market value of the land of the participant is the same or higher after the project compared with before (unless the participant voluntarily decides to sell one or more land parcels as part of the re-allotment process). One of the key aspects in creating trust in land consolidation within the society is the firm belief that all participating right holders will be at least as well off after the project as they were before.

The sustainability and environmental protection principle ensures that the use of the land consolidation instrument is respectful of sustainable development and the environment. Correct balancing between agricultural and other objectives of land consolidation is one of the key elements on the matter. If only agricultural objectives are aimed, this may detrimentally affect other areas, such as environmental or social aspects. The national legal framework should thus ensure that the sustainability and the environment are respected both on project and on the land consolidation programme level. Consequently, in all projects due environmental impact screening should be performed.

As regards the participatory approach principle, it should be noted, that the success of the land consolidation projects, and of the land consolidation instrument in general, largely depends on the satisfaction of the many



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diverse stakeholders, involved in the process. It is therefore essential to ensure the participation of a variety of stakeholders in the process. Land consolidation projects concern not only right holders, formal and informal, but also other stakeholders, such as communities, municipalities, farmers' organizations, ethnic minorities, other vulnerable groups, etc. Therefore, it is recommended to ensure that a wide range of stakeholders from different social groups is involved in the process and that everyone is provided an opportunity to be heard and have a right to protect their legitimate rights and interests.

The legal framework for land consolidation should ensure gender equality in the process and contribute to the promotion of general gender equality in the society. It is recommended both to develop measures to improve women's access to information and to establish measures in the legal acts, which would promote gender equality in the land consolidation processes. For example, such measures should include the registration of commonly owned land on the name of both spouses, the requirement for both spouses to sign respective land consolidation project documents, the payment of eventual compensations resulting from the project to both spouses, etc. Besides the instruments indicated above, it could be required that a certain percentage, e.g. minimum 1/3, of both genders is represented within the bodies, elected to represent the landowners, to ensure that women will also have a voice in the process. It is also encouraged to conduct informative sessions that reach directly women, implemented in women-only environments when necessary. Also, separate preparatory meetings could be organized for women, familiarizing them with the whole land consolidation project and their rights and opportunities therein. As a result, all owners, including non-registered spouses, will learn about their rights, about the land consolidation process, and will be able to take informed decisions.

Transparency is another key principle of land consolidation, which should be ensured throughout the process. It builds confidence in the process among society members and serves as a tool to ensure the respect of different legitimate tenure rights. Direct individual and organized meetings with the stakeholders are the key instruments ensuring transparency of the process. Another efficient tool to ensure transparency is making project related information available on the internet. Other means of ensuring transparency is publishing the land consolidation project related information in local newspapers, the national Official Gazette, local radios and television. In addition, transparency is ensured through posting of paper announcements in the public places, in municipalities, communities, villages (on billboards, in the markets, in the religious buildings, etc.). The wider the communication means used, the more possibilities to ensure that all social groups are informed.



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4.5 Objectives for land consolidation

The traditional objective of land consolidation in countries with ongoing programmes has been to support agricultural development. European land consolidation practice shows that land consolidation in most countries is shifting from a single-purpose land management instrument aiming at agricultural development, towards a tool, used for a variety of purposes, such as agricultural and community development, environmental and infrastructure projects, etc. Evidently, the objectives of land consolidation in each country should be adapted to the local situation and clearly included in the land consolidation legislation.

While it took countries in Western Europe several decades to move from single purpose (agricultural development) to multi-purpose objective, CEE countries should when adopting land consolidation legislation from the beginning open for multi-purpose use of the instrument even if the main focus in the short-term will be on agricultural development. Multi-purpose objective does not only mean that projects can have different objectives but also that the same project can have different objectives, e.g. improve farm structures in one part of the project area and facilitate implementation of a public initiated area-demanding project related to large-scale infrastructure, nature restoration or climate change adaptation and mitigation in another part of the project area and in this way compensate farmers in land instead of in money.

4.6 Voluntary or majority-based land consolidation

European practice shows that land consolidation is typically implemented either in a purely voluntary approach or by applying a so-called majority-based approach (also see section 4.3). In many countries with ongoing national land consolidation programmes, the legal framework provides for both types of land consolidation mechanisms. Countries like the Netherlands and Germany apply both approaches, while only a voluntary approach is applied in Denmark and Lithuania. In countries such as Poland and Czech Republic, only majority based land consolidation is implemented.

In case of voluntary land consolidation, the participation of the landowners in the project depends exclusively on their will to take part in the process and they will only participate if they give their written consent. In case of majority-based land consolidation, it is a legally defined majority of the landowners (for example, at least 75 % of landowners, representing at least 75 % of the area of the project), who decide on the implementation of the project. The remaining maximum 25 % of the participants would have an obligation to participate, if the aforementioned majority of landowners decide to implement the project.

However, it should be underlined, that even if the majority based approach is applied, adequate efforts should be made to get the support from as many landowners and other stakeholders as possible. Practice shows that very often the attitude of stakeholders towards the project positively changes, if the project is



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efficiently presented, explained and managed. Also, it is possible to increase the acceptance rate when the draft Re-allotment Plan is revised one or more times based on comments and objections from the stakeholders.

FAO recommends as discussed in section 4.3 to introduce land consolidation in a country in a voluntary approach but there may also be situations where a majority based approach is the most suitable solution. For example, voluntary approach would be very difficult when registration errors, informality and unregistered inheritance are the norm, when there is no available state land to catalyze the re-allotment process, or when there is also a need for considerable improvement of agricultural infrastructure or other public purpose objectives. The majority-based approach may be more suitable when the project has the strong support of the large majority of landowners and when there is also a need for a comprehensive reorganization of the territory and to support the rural infrastructure works, such as rehabilitation or construction of irrigation and drainage systems. On the other hand, majority based land consolidation is very difficult when the land value varies a lot in the project area and when only a minority of the landowners in the project are interested.

The decision about the approach should be taken only after a thorough feasibility study is conducted in the project area with interviews of all landowners and farmers (see section 4.9). In case of majority based land consolidation, proper safeguards should as discussed in section 4.3 be established in the legislation.

Both land consolidation approaches should be implemented on the basis of the respective legal framework for land consolidation. Consequently, the voluntary approach should not be understood as a simple parcel exchange and sale-purchase through normal land market transaction procedures. The legal framework for land consolidation should provide for mechanisms, facilitating the process (including the facilitation of the re-allotment planning by land professionals also in the voluntary based land consolidation projects and simplified rules for registration and implementation) and providing the necessary safeguards for the project stakeholders.

4.7 Lead agency and management of the national land consolidation programme

There is no unique European approach to setting up the institutional land consolidation framework evident from the practice of the countries with a long land consolidation tradition. In some countries, the land consolidation framework is centralized, while in others land consolidation competences are mostly decentralized and conferred to the regional or even municipal levels. The approach would depend on many factors including the size of the country, the organizational structure of the country, the level of organization of the executive branch and of the experience in implementation of land consolidation and its objectives.



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Lithuania, Turkey, Finland, Denmark represent countries with a clearly established centralized land consolidation institutional framework while Germany, the Netherlands, Serbia and Spain transfer the competence to the regions or municipalities and exemplify a decentralized institutional framework for land consolidation.

The land consolidation policy is determined on ministerial level in the centralized countries, while the formation of such policy is usually conferred to the respective regional level in the countries with a decentralized structure. Such ministerial level institution is typically the ministry dealing with issues related to agriculture, environment, water management and food, which is considered to be in a best position to attain the defined objectives of the land consolidation in close cooperation with other relevant national institutions.

The relevant ministry through its internal or external bodies represents the Lead Agency for land consolidation, both in terms of formulation of the land consolidation policy (operationalized through the national land consolidation programme) and its implementation. At the same time, the Lead Agency often serves as a Secretariat to the bodies responsible for decision making and implementation of the land consolidation projects.

Countries introducing land consolidation should establish a public Lead Agency with the overall responsibility for determination of the land consolidation policy and setting up a legal framework for implementation of land consolidation. The Lead Agency should be empowered to lead the overall implementation of the land consolidation programme and its projects and be able to provide guidance, coordination and expertise to the programme field implementation in all phases of the land consolidation project. The legal framework should also provide for flexibility for the Lead Agency to confer parts of the project implementation to private service providers in all phases of the land consolidation project. Building up such dual expertise system ensures flexibility in case of budget fluctuations and ensures the capacity of the Lead Agency to control the work of private service providers.

4.8 Decision-making bodies in land consolidation

As mentioned in section 3.2, the study revealed two main models for the approval of the Re-allotment Plan, the judicial approval and the administrative approval. The administrative approval of the Plan is usually done by the institution with the Lead Agency responsibilities, while the judicial approval entails approval of the Plan by a Commission representing different institutional and non-institutional stakeholders (the Land Consolidation Commission). The Commission is either established on project per project basis or they



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function as permanent bodies, with support of but independent from the Lead Agency. Usually, the Lead Agency has the function as secretariat of the Commission.

For the countries introducing the land consolidation instrument through the respective national legal frameworks, the establishment of a Land Consolidation Commission responsible to lead the implementation of land consolidation projects under the overall supervision of the Lead Agency is recommended. Such Commission should be empowered by the law to approve the Re-allotment Plan on the institutional side, but also to perform additional duties and lead the process of resolution of disputes, clarification and adjudication of ownership rights and property registration problems and handle the objections in the land consolidation process to a certain assigned instance in order to ensure that the above issues do not hinder the overall smooth implementation of the project.

While it is recommended that the Commission should be empowered to make decisions related to land consolidation projects from the institutional side, decision making powers should also be granted to the participants in the land consolidation project. According to good European practice, the tenure right holders within the land consolidation area should in projects with a majority-based approach be granted the power of approval of the Re-allotment Plan by the legal framework through a qualified majority. The participants may also be granted additional rights to provide recommendations to the Land Consolidation Commissions or the Lead Agency on valuation methods, project specific land principles etc. and participate in the valuation process.

Considering the nature of voluntary land consolidation, where each participant gives specific written consent, the establishment of voting rights is not relevant and the election of a Committee of Stakeholders on the side of participants in the land consolidation project is considered enough.

The purpose of such stakeholder committee is to serve as a representation of the general interest of the tenure right holders and other stakeholders in the daily communication with the responsible bodies and land consolidation professionals during the implementation of the land consolidation project. It should also be granted power to participate actively in the land valuation process and in facilitating negotiations between the participating landowners. The Committee of Stakeholders should, however, not be granted any decision making power concerning the tenure rights in the name of the participants in the land consolidation project.

4.9 The feasibility phase

The feasibility phase is the first and very important phase of the three major phases in the land consolidation project with main objective to assess the feasibility of the project in the particular area. The outcome of the feasibility phase is a Feasibility Study Report, which should identify the unique aspects of the project area



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and the community, provide overview of the tenure rights and right holders, confirm the owners' interest and commitment and provide the basis for the re-allotment planning and further implementation. The results of feasibility study should determine whether the specific land consolidation project is likely to achieve its intended outcome and impact in line with the land consolidation objectives set in the national legal framework. The feasibility study is the basis upon which initiation of the re-allotment planning is approved by the Lead Agency.

Thus, the feasibility study has the following particular objectives:

- To assess the expected level of participation among the landowners;
- To assess rural infrastructure needs and prepare preliminary estimates of the required investment to be integrated with the land consolidation project;
- To provide a recommendation whether it would be reasonable to proceed with development of a Re-allotment Plan and what would be the most suitable approach (majority based or voluntary land consolidation);
- To assess whether the participation thresholds (for majority based land consolidation) can be expected to be met;
- Assess any particular problems with regard to the tenure rights and right holders;
- To identify particular interests for sale, purchase, exchange or preferences for relocation of the land parcels;
- To estimate the budget needed to implement the project.

The feasibility phase is implemented through several sub-phases including: desk research (preparation of map of formal land ownership in the project area, analyses of all relevant available data), field research (interviews with all landowners and farmers) and data analyses with recommendations and potential mitigation measures. The preparation of the formal map of land ownership is initial step in this process. Such map is an overview of the cadastral maps linked to the land tenure rights and is further used in the process of interviews with landowners and in the process of assessment of the interest in land transactions (sale, purchase, exchange and preferences for re-allotment).

Next very important step is communication and direct interviews with as many as possible identified land owners within the land consolidation area, This step is important out of two reasons: to assess the overall interest in the land consolidation project, but also to assess the individual preferences of the owners and their interest in land transactions. The conclusions on the feasibility of the project and the type of land consolidation should derive from the above mentioned activities.



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The Feasibility Study Report should provide detailed assessments of feasibility, expected costs, preliminary technical design, include environmental pre-screening results and cover all other aspects, which are to be included in the next phases of project implementation and should be accompanied with the GIS based maps and other relevant materials.

In particular, the feasibility study report should synthesize and analyze all existing information on socio-economic and demographic situation of the area, the agricultural production structure, geographical characteristics, landownership situation, other tenure rights and existing rural infrastructure. The report should also investigate the local development needs and the interest through assessment of interest in land consolidation, land mobility, the needs for infrastructure improvement and estimate the expenses for the latter.

The feasibility phase is especially important to assess the land mobility and specific individual preferences of the tenure rights holders in the land consolidation project. The interest to sale, purchase, exchange is especially important for the voluntary land consolidation approach and contributes to building up a land pool necessary for project planning in the phase of re-allotment. For the majority based land consolidation in addition to the above mentioned interest for transactions, it is important to also collect preferences for repositioning, if any. The results of the assessment of the interest of the tenure right holders for property transactions and preferences for repositioning are presented as an integral part of the Feasibility Study Report called Land mobility map.

Based on the above, the report should identify potential problems, make assumptions regarding the feasibility to implement the project, recommend the land consolidation approach, identify the land mobility potential and provide a tentative estimate of expenses for construction of the needed infrastructure.

Furthermore, the Lead Agency and the service providers have an important role in awareness raising and informing the landowners, farmers and other stakeholders about the benefits and conditions of participation in the land consolidation project. The above mentioned activities should be implemented through a participatory process.

4.10 The re-allotment phase

The land re-allotment is a key activity in the land consolidation process, which results in the preparation of the Land Re-allotment Plan. Devising a Land Re-allotment Plan is a complex and integrated procedure with several key stages such as land valuation, re-allotment planning and approval of the plan.

The approach applied to the preparation of the Re-allotment Plan is different in the majority-based and voluntary projects. In a majority-based land consolidation approach, the Re-allotment Plan represents a new cadastral layout and correspondingly new location and configuration of in principle all the properties, with



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the possibility that some land parcels remain unchanged in the same location. In voluntary projects, the Re-allotment Plan is the outcome a sum of the agreements concluded with the participants during the negotiation process facilitated by the land consolidation professionals leading the planning process.

The Re-allotment Plan is the core document of any land consolidation project. From the legal perspective, the Plan can be described as a document (including ownership maps), defining the ownership situation in the project area after the implementation of the project.

Land valuation is fundamental to all land consolidation projects and different countries apply different approaches and methods of land valuation in land consolidation. It allows the implementation of the “at least as well off” principle, and provides the basis that allows fair and transparent redistribution of land parcels and support the re-allotment planning process including compensations. The land valuation for the purpose of land consolidation is different from other types of land valuation, e.g. valuation for land tax purposes, and as such shall allow for fast, comprehensive and cost-effective valuation. Furthermore, the purpose vary depending on whether the land consolidation is voluntary or majority based. In voluntary projects, land valuation is meant to facilitate reaching agreements between the participants, while in majority based projects land valuation results are binding and represent the basis for the re-allotment planning.

It is recommended that the land consolidation law defines key principles of valuation, while more detailed procedures are defined in bylaws or other legal acts. At the same time, the valuation procedures need to be flexible allowing for adaptation to the specific local situation in the project area. The key principles to be respected in the process is transparency, mutual satisfaction of project stakeholders and fairness.

The draft Re-allotment Plan is the main outcome of the re-allotment phase. In voluntary land consolidation, the participants give their written consent with the plan before it is approved by the decision-making body (see section 4.8). In majority based land consolidation, the participating landowners vote about the approval of the Re-allotment Plan and it should as discussed in section 4.3 and 4.6 only be approved if the qualified majority of the participants are in agreement. The participants should have the right to provide their objections based on which the Plan should be revised and again presented to the landowners for approval with the qualified majority. The revision process can be repeated if needed with a second or third revision. After the approval of the qualified majority of participants in majority based land consolidation, the Plan is approved by the decision making body. Also in voluntary land consolidation, the Plan is approved by the decision making body.



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4.11 The registration and implementation phase

Once the Re-allotment Plan is approved, the registration and implementation phase of the project begins. During this phase, the solutions provided in the approved Plan must be implemented. This concerns the implementation of respective cadastral and registration works, performance of the financial settlements, and the implementation of field works, related to infrastructure and other envisaged measures.

New land parcels, approved in the Plan must be marked on the ground and the necessary data, related to the newly formed or shaped parcel, must be entered into the cadaster and land register. In most countries, cadastral surveying is merely a technical work, implemented by the respective professionals, without involving landowners, their neighbors or other stakeholders into the process. Therefore, marking of parcels and facilities, setting their boundaries with all required controls is undertaken exclusively by the respective professionals.

According to widely accepted approach in most of the countries, the decision of the body approving the Re-allotment Plan should be the sole basis for the registration of the new legal ownership situation, resulting from the land consolidation project. This suggests that the whole registration is made by submitting one single document (the approved Plan). This allows for simultaneous and cost-effective implementation of the Re-allotment Plan.

Taking into account this aspect, legal acts, regulating land consolidation and registration of real property and related rights should provide for procedures, how such registration should be implemented. It follows from the designation of the Plan as an administrative act that there would not be a need for notaries or other intermediaries involved in contracts between individuals over real estate.

As a multi-purpose instrument, land consolidation presupposes implementation of field works, which concern, for example, construction or rehabilitation of roads, drainage, irrigation, sewage and other works, defined in the Plan. Land consolidation legislation should provide, who is responsible for the implementation of works and what are the respective procedures.

Finally, land consolidation legislation should also provide for rules of financial settlements as an integral part of the land consolidation process. For example, this could concern payments to and from landowners, compensations related to differences in value, should some owners wish to enlarge and others to diminish their holdings. Settlements are performed on the basis of the Re-allotment Plan, where the list of settlements make an integral part.



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4.12 Monitoring and evaluation of land consolidation programme and projects

Although capital intensive land consolidation programmes have been widely implemented across Europe, little effort has been done to monitor and evaluate these programmes in a systematic manner. Poor documentation of results may easily lead to the image of land consolidation ‘being complicated and expensive’. This relates to the ‘technical’ (direct) progress made during the individual project life but even more to the longer-term socio-economic impact achieved by economizing the production, gaining more income and achieving a higher standard of living. One of the learning points is that gathering data at the end of projects is resource intensive, making evaluation very expensive. Projects should therefore be guided in a uniform way to assess key indicators such as average land parcel size, average number of parcels per farm and the distance of the farm to the parcel before and after the project. Both technical and socio-economic data should be collected at the feasibility phase to provide for necessary baseline. Collecting this information has the purpose of assessing the feasibility and appropriateness of projects and it is input to structured impact assessment of a sample of completed projects.

Thus, it is recommended to establish provisions for systematic monitoring and evaluation of a land consolidation programme and of individual projects, as well as to conduct on a regular basis full socio-economic impact assessments of a limited number of implemented projects.

4.13 Combining land consolidation with land banking

In several European countries land consolidation programmes have benefited from active land banking approaches. Land banking in land consolidation projects can have two important effects: i) it helps enlargement of farms besides the consolidation of parcels and ii) it can help to integrate and restructure the public infrastructure by smart swapping of land and creating room for this. Such public functions include new or improved access roads, drainage or irrigation facilities, landscape elements, nature preservation areas, nature friendly zones along canals, cycling and hiking trails, recreational areas, cultural heritage and landscape art.

The functioning may be based on the model of actively buying, exchanging and selling land. Land is acquired on the land market from the early phases of projects and onwards, is temporarily managed and alienated/allocated towards the new functions of the specific project. During the implementation, the stock of land serves the purpose of compensating farmers for land taken for implementation of field works. Countries with large state land reserves have the advantage that land acquisition is not needed. However, special arrangements may need to be made to make this land available for land consolidation projects.



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In land consolidation with a voluntary approach, the use of land banking is important especially if the land mobility in the project area is low, i.e. few private owners want to sell and many want to exchange. In this case, which is often the situation in many countries in Central and Eastern Europe, voluntary re-allotment planning is very difficult and the use of available state land (already owned by the state or purchased by the Land Bank for the purpose of implementation of the project) can catalyze the re-allotment process and preserve the land mobility for as long as possible.

It is recommended that land consolidation is combined with land banking since the combined use of both instruments create synergy while aiming to improve the land structure and land mobility in fragmented areas. The Land Bank can play an important role in the attainment of land for public purposes in the land consolidation projects. Respective legal acts should clearly define the role and functions of the Land bank in land consolidation as well as the operational mechanisms needed to find the right balance between a flexible market-oriented approach and transparent accountable public functioning.

5. Conclusions and the way forward

Most countries in Western Europe have a long tradition for implementing land consolidation projects. In Central and Eastern Europe, land reforms from 1990 on in most countries resulted in farm structures characterized by excessive land fragmentation and small average farm sizes. To address the structural problems in agriculture, most CEE countries have introduced land consolidation instruments and nine countries already have ongoing fully operational national land consolidation programmes while a number of countries are actively developing land consolidation instruments (Hartvigsen, 2019). FAO has from 2000 on supported the introduction of land consolidation and the development of national land consolidation programmes in the region.

The experiences from many countries in the region show that it is often a long and not always straightforward process to develop a fully operational national land consolidation programme and also more complex than anticipated 10-15 years ago when the FAO regional land consolidation programme was launched.

The development and adoption of solid and operational land consolidation legislation is in all countries a corner stone in the process towards a national programme. However, it has proven to be very difficult to adopt fully operational legislation in the first attempt and several countries have made major amendments to their legislation after implementing the first projects under the national programmes.

Most of the legal discussions are with few variations the same in all the countries preparing for a national land consolidation programme. FAO has during recent years acknowledged a significant need for an



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overview of European good practice in land consolidation legislation as well as for generic legal guidance on developing land consolidation legislation in the member countries in Europe and Central Asia. Thus, FAO has in 2018 conducted a regional study to identify European good practice on land consolidation legislation and will in 2019 publish a Legal Guide on Land Consolidation. The primary objective of the Legal Guide is to facilitate the creation and development of the legal frameworks for land consolidation in Europe and Central Asia, through the promotion of the good European land consolidation regulatory practices. FAO is committed to base all its work on tenure on the VGGT and the Guide also aims to facilitate the implementation of VGGT in the field of land consolidation, providing much more detailed guidance than what is available in the Guidelines. It is expected that the Legal Guide will also be relevant for countries outside Europe and Central Asia developing land consolidation instruments, e.g. in South East Asia and Africa.

References

Binns, B. (1950): The consolidation of fragmented agricultural holdings. FAO.

FAO (2003): The design of land consolidation pilot projects in Central and Eastern Europe. FAO Land Tenure Studies 6. Rome.

FAO (2004): Operations manual for land consolidation pilot projects in Central and Eastern Europe. FAO Land Tenure Manuals no. 1. Rome.

FAO (2008): Opportunities to mainstream land consolidation in rural development programmes of the European Union. FAO Land Tenure Policy Series 2. Rome.

FAO (2018): Realizing women's rights to land in the law - A guide for reporting on SDG indicator 5.a.2. Rome. FAO.

Hartvigsen, M. (2013a): Land Reform in Central and Eastern Europe after 1989 and its outcome in form of farm structures and land fragmentation. FAO Land Tenure Working Paper 24.

Hartvigsen, M. (2013b): Land Reform and land fragmentation in Central and Eastern Europe. Land Use Policy 36 (2014)

Hartvigsen, M. (2015): Experiences with land consolidation and land banking in Central and Eastern Europe after 1989. FAO Land Tenure Working Paper 26.



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Hartvigsen, M. (2019): FAO support to land consolidation in Europe and Central Asia during 2000-2018 - Experiences and way forward. FAO Land Tenure Journal 1/2019.

Lerman, Z. et al. (2004): Agriculture in Transition – Land Policies and Evolving Farm Structures in Post-Soviet Countries. Lexington Books.

Van Holst, F., Hartvigsen, M., Ónega Lopex, F. (2018): Land governance for development in Central and Eastern Europe: Land fragmentation and land consolidation as part of Sustainable Development Goals. World Bank Land and Poverty Conference, March 2018.