

Georgia case study

Aspects of land consolidation in Georgia

David Egiashvili
 Chairman
 National Agency of Public Registry
 Ministry of Justice of Georgia

Introduction

In Georgia, the first attempts to introduce rural sector reform can be traced back to the mid-1970s, when the Government started to experiment with leasing land to farmers. Due to political opposition to this idea, the experiment failed and no further developments took place until 1988, when large tracts of land in five districts were transferred to farmers. At that time, however, those experiments had no legal significance since all land was State-owned.

By the early 1990s Georgia had 781 collective farms each with an average 1.800 hectares of productive farmland, and 255 workers and management staff. The Georgian Government in 1992 started privatizing state land to the country's citizens, as this was seen as the only alternative to poverty and hunger. Land was allocated to approximately 1 million households according to equitable principles. Citizens who were directly involved in farming had right to receive up to 1.25 hectares of land per family. As a result of the land reform 1 million families – i.e. an estimated 4 million Georgian citizens - became owners of small land parcels, with an average of 0.9 hectares per household. This privatization was free of charge.

Subsequently, a number of donor funded projects have made progress with aerial photography, mapping, cadastre software, database development and registration of land titles, thus contributing to more secure land tenure in Georgia. The land reform process has arrived at the preparatory stage for the second phase of privatization of the remaining state owned land. The second wave of privatization is intended to be rapid process oriented on commercial principles.

I Stage of Land Reform

The Civil Code and the Law on Land Registration regulated transactions in Georgia. The transfer of land included sale, inheritance, grants and alienation. Transactions become legal only after registration. The procedures regulating the transfer of ownership right to land from one party to another were laid down in the law.

Only registered rights can be officially sold, leased or used as collateral. The Presidential Order on Urgent Measures for the Initial Registration of Agricultural Landownership Rights was issued to accelerate and simplify the requirements of the initial registration of agricultural land. There was considerable donor assistance to facilitate first title registration.

The Land Market Development Project of the United States Agency for International Development (USAID) (1997-2002) provided funding of cadastral surveys and the registration of 3 million agricultural parcels. About 1 million parcels had been registered by the end of 2000; the remaining 2 million were completed by 2002.

The first stage of privatization resulted in a high level of land fragmentation. The equitable principle – land to everyone – created a large number of small size land parcels in private ownership. It is worth mentioning that that reform was aimed more at political and social than economic elements (e.g. agricultural land was granted without any payment – social element, owner of agricultural land must only be the citizen of Georgia – political element, due to reform huge amount of land lots appeared after division of tract of land – in this case economic element was not involved, etc).

The Government fixed three categories of citizens eligible for the private ownership of land: citizens who were directly involved in farming had the right to 1.25 hectares of land per family, people who lived in rural areas but were not involved in farming (working in education, public health) were entitled to 0.75 hectares, and people from urban areas who could obtain 0.25 hectares. Land already owned by individuals (subsidiary household plots) prior to land distribution was included in the 1.25 hectares and so the real land parcels devolved to the population were often smaller than the fixed amount. These quotas did not mean that the land was provided in one parcel. On the contrary, each family was given four to five land parcels located in different areas. In some areas land distribution was complicated by the inability of the government to control the process and the lack of relevant rules and regulations. Farms covering less than 0.9 ha represents 94.5% of agricultural farms. 5.4% of farms are of 10 ha. and 0.1% is the farms of 90 ha.

II Stage of Land Reform

Notwithstanding the high level of fragmentation there was uncertainty in further alienation of state land that became the reason of insufficient environment and support to land market development.

Stagnating institutional reform and need for creation of a legal base significantly hampered land market development. Considering the fact that it takes a long time to make progress in the agricultural industry it is clear that agriculture in Georgia was being sacrificed to the underdeveloped land and land-use management methods, capacities and legal base.

Reform implemented in 1992-98 fulfilled its basic mission, i.e. the state is not the only owner of agricultural land; private and general ownership forms were allowed and legalized; sell-buy, lease, hypothec and other activities on land is not prohibited. A land market is forming, i.e. in fact this is the basis, which must promote development of agriculture in Georgia.

Land reform could not be deemed as completed. It needed additional impetus. In line with the new governmental strategy, an agricultural lands privatization concept was prepared by the Ministry of Economy. It was necessary to ascertain perfect law, which unambiguously regulates state owned land lease and privatization issues. The

concept has been approved and law on Privatization of Agricultural Lands under State Ownership is being developed.

The privatization concept proposes that leasehold land presently being under the state ownership will be sold out directly to the lessees where the price will be tenfold of land-tax. Leasehold land privatization will be conducted during 2 years after the adoption of the law by the Parliament. It is possible to delegate privatization responsibility to the local government before expiration of this period. Privatization of the leasehold lands is to be done through auction where the initial price will be twofold of land-tax.

The concept proposes other mechanisms, namely, new lease contracts on lands allowed to be privatized will not be made. Redemption can be made by ten year down payment (10% annual installment), also in case of covering the total payment in 1 year lesser pays only 50%; in case of covering total payment the in 3 years lesser pays only 70%.

The advantages of the proposed concept are that the land will be equalized to other immovable properties and managed by overall, universal method, land management procedure will be significantly simplified and improved consequently, harmonized and rational mechanism of immovable property dispositions and management will be created, as economical development resource, significant fiscal effect will be achieved after privatization of agricultural lands.

Land consolidation pilot projects

Within the KfW project on land consolidation a component was envisaged mainly focusing on the creation of precondition for land consolidation in 6 pilot “sakrebulos” (communities). The main idea of the project components is to provide information about soil of the given area.

Products of planning process are to be: Cadastral maps, Land use / vegetation cover, relief, soil sustainability, landscape development. Creating a Soil Atlas project considers:

1. Protection of existing soil data and maps:
 - Provision of Hardware and Software;
 - Digitalization of information;
 - Printing of the digital valuation maps;
2. Updating existing soil data:
 - Promotion to establishment of the research companies;
 - Research of geo-ecological sensitive areas;
 - Support to coordination of the research laboratories;
 - Cooperation with the unions/associations of agrarian sector.

The Integrated Regional Development Center implemented a pilot project in three “sakrebulos” of Gori district (a conflict area densely inhabited by the IDPs). The overall objective of the project was to improve living conditions in the rural area through comprehensive approached on the pilot territory. Considering the consolidation concept project comprised several components for improved livelihood, namely improved infrastructure, small business development and community

mobilization. An infrastructure component implied water provision as well as sewage system. Within the small business development component farmers were granted technical and material support base on the business plans prepared by them and selected as viable. The project tried to help farmers to expand their farms and to stimulate consolidation process.

Within the project there was an effort made to mobilize rural community for their improved living conditions to let them transform their farms from subsistence farming to as commercial economy.

Based on the IRDC experience there are some problems that face the process of consolidation: (1) Most of farmers owe land taxes accumulated for years and transactions are rather difficult to register and make it legal; (2) Negotiation with farmers is time consuming; due to the lack of job opportunities peasants are not eager to sell their pieces of land and try to maintain them as a social security.

Consolidation and re-allotment of plots and parcels, together with the establishment of clear and transparent ownership rights, is a strategy to overcome the above problems and can eventually lead to increased food security and the alleviation of poverty. However, land consolidation in Georgia needs to go way beyond the re-allotment of plots and has to take into account other urgent needs in the development of rural areas, i.e. village melioration and infrastructure planning, for which spatial planning on a higher level may provide the framework.

Main aspects of further reform

A functioning land market is a basis for economic growth and an indicator of land as a factor of production. This is the case when land can be sold, bought and rented and used as collateral for loans. A precondition for this is public registration. Furthermore, a countrywide land registration system is an important condition for land taxation and budgetary revenues. It is an important part of economic development.

In line with the position of the new government of the country – to move forward to integration into European structures by sharing the values and adopted standards - the NAPR initiated comprehensive reform of the cadastre and registration system to provide availability of public registry information for registering and securing ownership rights in order to support real estate market development and stimulate the real estate market development.

The primary goal of the reform in property right registration sphere is to establish customer oriented simplified and accessible cadastre and registration system in order to guarantee transparent and corruption free service to interested parties through secure electronic registration system.

The principle objective of the Agency is to recognize, register and secure property rights. The Agency intends to provide transparency of public registry information for registering and securing ownership rights.

To reach the reform objectives a number of institutional changes were implemented. On the basis of the State Department of Land Management the National Registry of

Public Registry is established. The Bureaus of Technical Inventory (BTIs) registering properties up to 1997 have been liquidated. The information maintained in BTIs is transferred to the Agency. Previously, the references about seizure were issued by the Chamber of Notaries. From now on the functions of mortgage and seizure registration is transferred to the Agency.

As a result of the institutional reform the Agency was made a one-stop-shop for property registration with simplified registration procedures whereas countrywide data will be integrated into the registration system. To reach the defined objectives the Agency intends to establish the unique database covering textual and graphical information about the property all over the country.

Simplified and customer-oriented registration and cadastre system will be important impetus to the land and real estate market development and therefore will create more favorable conditions for land consolidation in the country.