

Lithuania case study

Preparation for land consolidation in Lithuania

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Background

Land reform

The present land reform in Lithuania started in 1991 and is based on the restitution of land ownership rights. The main purpose of this land reform was to completely rearrange the land management system so that the newly built land management system would facilitate social and economic development of the country. According to the main Laws – Law on Land Reform and Law on the Procedure and Conditions of the Restoration of the Rights of Ownership to the Existing Real Property – ownership rights were supposed to be restored to land, forests, water bodies, residential houses and economic-commercial buildings. Land ownership rights were restored to the former owners who owned this land until 1940 and their successors in three ways:

- in kind;
- in equivalent;
- compensation.

In this process there are involved several institutions: as a main body responsible for implementation – County Governor Administration that through the public tender procedure selects the executor of the works (that could be companies, having the license for preparation of the land reform land management plans and for execution of cadastral surveying), and the National Land Service under the Ministry of Agriculture that supervises and controls the process. The County Governor approves the land reform land management plan and takes the decision for any state land transaction (also if it is not directly related to the restitution of the land ownership rights, but also to the sales and lease of the free state owned agricultural land). Finally, the legal registration of the newly formed land ownership is being carried out by the State Enterprise Centre of Registers.

Restitution of land ownership rights is at its final stage though the most difficult cases for settling the applications have remained. As of 1 January 2005, the total number of applications submitted for restitution of land ownership rights in rural area was about 746.000 to the total area of land amounting to 4,2 million hectares. Land ownership rights have been restored to 91 percent of land area indicated in the applications (4,03 million hectares). Thus land ownership rights have not been restored yet to 0.17 million hectares. More than 3,5 million hectares of land is legally registered under the private ownership rights.

Agriculture and rural development

The total land area of Lithuania is 6,53 million hectares; land designated for forestry purposes covers 30,2 percent of the total land area, whereas land designated for

agricultural purposes takes 60,7 percent (3,96 million hectares) of the total land area; water bodies, roads, built-up territories and land of other purposes cover the rest of it. Land used for agricultural activity takes 53,3 percent or 3,48 million hectares, arable land accounts for 2,93 million hectares of it; meadows and natural pastures take 0,55 million hectares of it.

Protected areas (national, regional and municipality parks, conservation areas and reserves) cover 12,1 percent of the total land area.

The number of inhabitants in rural areas has been slightly decreasing since 1992, but the ratio of the rural and urban populations remain the same because of the accelerating migration of urban inhabitants to rural areas or abroad: 67 - 68 percent of the total number of inhabitants reside in urban areas and approximately a third of them live in rural residential areas.

The share of employees engaged in agriculture is 17,2 percent of total number of employees.

In the last three years, the total employment rate in agriculture, hunting and forestry was about 17,3-17,9 percent and, as it is seen, does not vary a lot. Agriculture remains the general activity of inhabitants in rural areas (52,5 percent of all active rural population); 14,1 percent of them work in construction and industry, 33,4 percent work in the service sector.

In the 3rd quarter of 2003 there were 57.000 people in rural areas who had a higher education (in other words, every twentieth villager holds a university diploma); 117.000 people had a technical secondary education (every twelfth); and every eighth had a secondary education. In the above-mentioned period of time there were 262.800 people in rural residential areas who had a profession or, in other words, every fifth villager had a speciality of any level.

The number of rural residents with a university education is three times lower as compared to the urban population.

The main source of disposable income is income from employment, consisting mainly of salaries and income from self-employment. On the country's scale, earnings in agriculture and in its largest part private sector are the least. In urban areas, household work income made 71 percent of all disposable income, in rural areas 63 percent; social benefits in urban areas were received by 21 percent of households and in rural areas by 32 percent.

Three types of farms can be distinguished in Lithuania: farmers' farms, agricultural companies and individual (family) farms. The number of farmers increased by 64 percent over year 2003 (from 39.249 farms on 1 January 2003, to 64.425 active farms on 1st February 2004); agricultural companies and other agricultural ventures work in a stable and promising tendency too, only 6 of them stopped functioning last year; the number of owner farms (small farmers) decreased by 16 percent (to 190.992).

Distribution of agricultural land and holdings by types of owners and by area of used agricultural land, in hectares*

Types of owners	Number of agricultural land and holdings	Territory of agricultural land, in hectares	Average area of agricultural land in use, in hectares
Natural entity	255417	2344676.41	9.18
Legal entity	531	280411.83	528.08
Total:	255948	2625088.24	10.26

Without agricultural land and holdings, which are not used for agricultural purposes
Data of the *Agricultural Information and Rural Business Centre*, reported on 9 April 2004

The number of big, specialised or mixed merchant farms is slightly increasing in Lithuania; these farms register very high results, which satisfy the productivity averages of the European Union. The biggest and most productive producers of agricultural products, in comparison to individual farms and farmers' farms, in the meantime are agricultural partnerships and other agricultural companies. However, the absolutely best milk processing and crop yield results are recorded at farmers' farms.

Apart from agriculture, different kinds of activities are developing in rural areas. These create new jobs and, moreover, provide services, which are necessary in life, work, and entertainment for both rural and urban residents. There were 1707 farms practising agriculture-alternative activities, recorded in the register of the Agricultural Information and Rural Business Centre on the 9 April 2004, which cover more than 26.000 hectares of land; 437 of them are rural tourism farmsteads, 123 practices in rural crafts.

The main general purpose of agriculture and rural development in Lithuania is implementation of general EU agricultural policy principles and measures. In order to achieve the general long-term purpose and to solve identified problems mid term agriculture and rural development aims and objectives are formulated:

- creating competitive agriculture orientated towards the EU market and food storage as well as marketing development, which allows better use of present possibilities better and ensuring employment in rural area;
- possibilities to verify economic activity in rural areas, and possibilities for agricultural production producers to undertake additional economic activity, cherishing biological variety, landscape and environment.

With Lithuania now a member of the EU, it is possible to reclaim European Agricultural Guidance and Guarantee fund assets (EAGGF), budgeted for rural development. The support of the EAGGF Guarantee section is budgeted according to the Lithuanian Rural Development Plan (RDP) of 2004-2006 by a compensatory principle, i.e. the compensation of lost incomes or emergent additional expenses because of taken liabilities. Investment support is funded from the EAGGF Guidance section according to the Lithuanian single Programming Document (SPD) IV priority "Rural development and fishery". This support is given to finance projects that instil the new ways of farming in less favoured areas and expand alternative economic activities in the country (tourism, non-agricultural trades).

Thus, the Lithuanian Rural Development Plan of 2004-2006 and the Single Programming Document are the main documents whereby EU support for Lithuanian agriculture and rural business (with a certain part of national co-financing) will be reclaimed.

The following measures are included in the **RDP**:

- Agro environment;
- Afforestation of agricultural land;
- Less Favoured Areas;
- Early retirement from agriculture;
- Support to semi-subsistence farms;
- Support to meeting EU standards;
- Technical assistance.

The **SPD** (it will continue pre-accession SAPARD programme with several exceptions) is foreseen for these measures:

- Investments in agricultural holdings;
- Young farmers setting-up;
- Improving processing and marketing of agricultural products;
- Promoting the adaptation of rural areas (it includes the sub-measures: Agricultural water management; Land reparation; Advisory services to the farms; Diversification of agriculture and economic activities; Stimulation of rural tourism and crafts);
- Forestry development;
- Leader + type activities;
- Training.

Encumbrances for agriculture and rural development

Currently several factors hinder agriculture and rural development: a poorly functioning agricultural market, small farms, not efficient enough agricultural production, poorly developed engineering and social infrastructures, unfavourable demographic situation, insufficient education of the rural population, lack of alternative activity and low purchasing power of citizens in rural areas.

According to the data of the State Land Cadastre, for 1 January 2004 the average area of the land parcel used for agricultural activities was 4,7 ha and the average area of a land parcel belonging to one owner was 6,3 ha. The average area of the private household plot was even smaller - 0,8 ha. Such small land parcels often divide former large fields (used for farming activities during the Soviet period) into several land holdings and cause fragmentation in land use.

Also according to the *Agricultural Census* data from the year 2003, small farms are dominating in Lithuania – the average size of the farm is 9,1 ha while in the pre-war period it amounted to 12,4 ha. The average size of the two-thirds in the group of the smallest farms (up to 3 ha) is 2,2 ha. The majority of the farms in Lithuania – 230.000 (83 percent of total) are up to 10 ha. The medium size farms (10-50 ha) made 43.000 of the total number (or 15 percent) and the average size was 18,5 ha. Large farms,

having 100 ha of land and more, counted to about 2.000 and they constituted only 0,7 percent of the total number of farms.

The average size of the registered farms in the Farmers' Farm Register was 28,2 ha of land (45.000), while the average size of the family farms was 5,5 ha (total number – 233.000). Average size of the agricultural enterprises, joint stock companies and other legal farming entities according to the same information source was 483 ha (total number - 0,6 thousand).

It is foreseen that with the completion of the restitution of land ownership rights there will remain about 0,5 million hectares of free state owned agricultural land that will be the subject for further privatisation. In 2003 the total number of all land transactions (private and state owned land; purchase-sales, lease and grant transactions) was about 3650 per month (to the land area of 8900 ha). In 2004 the land market became much more active - the demand to buy private and state owned agricultural land due to the State support for acquisition of agricultural land and the EU membership that provides financial support for agriculture and rural development has increased considerably. About 7 500 natural persons submitted their applications to buy over 65.000 ha of the state owned agricultural land and 156 legal entities applied to buy 34.000 ha of such a land.

These facts and also the dominance of small and fragmented land plots in agricultural sector, as well as undeveloped infrastructure in rural area leads to the need in defining the new policy for land management. This comes together with adjustment to the EU Common Agricultural Policy and a need of the Lithuanian farmers to create well functioning and competitive farming structures. Therefore Lithuania also asked the EU Commission during the negotiation process for 7 years transitional period regarding selling of agricultural and forest land to the foreigners.

The Lithuanian Parliament (Seimas) has adopted the amendments to article 47 of the Constitution of the Republic of Lithuania. After the enforcement of these amendments, restrictions to purchase agricultural and forestry land for the foreigners and foreign legal persons are removed. Foreigners and foreign legal persons are allowed to acquire agricultural and forest land according to the provisions set in the Constitutional Law which are coherent with the results of the negotiations between Lithuania and the EU. The agreement on a 7 year transition was reached. The exception is provided to the farmers of the EU Member States who have resided in Lithuania for at least 3 years on a permanent basis and are engaged in agriculture.

Legislation and organisational structure

Main legislation regulating land consolidation

The main laws regulating land relations with the reference to land consolidation in Lithuania are:

- Constitution of the Republic of Lithuania (sets main provisions regarding the protection of ownership and stipulates the inviolability of ownership):

“Ownership is inviolable. Law protects ownership rights. Ownership can be taken for public needs only following the procedure prescribed by laws and must be justly compensated”);

- Civil Code (regulates all civil legal relations, including relations regarding real property);
- Constitutional Law on Article 47 of the Constitution of the Republic of Lithuania (sets the main provisions for acquisition of land in the Republic of Lithuania by its citizens, legal entities and the foreigners or foreign legal entities);
- Law on Land (the main law regulating relations of land ownership, possession and use as well as land management and administration in the Republic of Lithuania);
- Law on Land Reform (lays down the procedure for land reform based on restitution of land ownership rights and land privatisation);
- Provisional Law on Acquisition of Agricultural Land (lays down the requirements for acquisition of state, municipal and private agricultural land by means of sale, exchange or other ways, which do not contradict the terms laid down under this Law with the exception of inheritance and restitution of ownership rights. This law also foresees support for the acquisition of agricultural land (including forests and water bodies situated in this land) in order to carry out land consolidation, form rational land tenures, stimulate the land market process and develop competitive agriculture).

Implementing provisions set in the Law on Land, Rules on Development and Implementation of Land Consolidation Plans are under preparation presently, and in the nearest future will be approved by the Government of the Republic of Lithuania.

General organisational structure of land management and administration

The Government of the Republic of Lithuania is the main responsible body for developing and implementation of the State policy in the field of land management and administration, as well as in the inter-related fields, such as geodesy and cartography, real property cadastre and register, development of geo-referenced databases.

The National Land Service under the Ministry of Agriculture is directly responsible for the development and implementation of the State policy in the area of land management and administration – in particular, in the field of the restitution of land ownership rights, land reform, transfer, allocation, sales and lease of land, development of the Land Information System, as well as the land cadastre. This institution will also be responsible for land consolidation in Lithuania though the responsibility for implementation of this policy is being given to the County Governor Administrations (10). They are also responsible for the management of the Free State Land Fund. There is a special Land Management Department in each County Governor's Administration that is responsible for the land management and administration in the county. There are also the lower units responsible for implementation of the land management policy in sites – Land Management Divisions in Districts (Cities) (60). Municipalities in Lithuania (60) (self-governments) are responsible for territorial planning and also can influence the land taxation process through the exemption from taxation or giving the derate to individual private and legal persons. State Enterprise Centre of Registers are responsible for administration of real property and ensuring of state guarantee over the rights to real property. This

institution registers real property of natural and legal persons, ownership and other real rights to immovable objects, restrictions on these rights, legal facts prescribed by laws.

In the system there are several private companies, executing cadastral surveying and participating in land privatisation, as well as some state owned companies that take part in this process – State Enterprise State Land Survey Institute, Joint Stock Comapany Aerogeodesy Institutue (the founder is the Ministry of Agriculture) and State Enterprise GIS Center, founded by the National Land Service under the Ministry of Agriculture.

Preparation for land consolidation

Pilot projects on land consolidation

The first action towards defining the new land management policy principles was taken during the bilateral Danish - Lithuanian Land Consolidation Pilot Project in Dotnuva, Kedainiai district in September 2000 - December 2001.

The main goal of this pilot action was to introduce the Danish way of implementing land consolidation and to perform this in Lithuania with the main objective to improve the agricultural structures, also to support the legal basis drafting process for future land consolidation in Lithuania. The total pilot project area was 392 hectares with 79 landowners and 46 hectares of free state owned land. Out of these 79 landowners 56 did not use their land. After negotiations with the landowners it appeared that 19 of them have agreed to take part in the project. Some 86 hectares of land have changed the owner. Many land parcels have improved their shape and location and therefore the land value have increased as well. This pilot project has proved that land consolidation could be a tool for improvement of agricultural structures and increase of the economic sustainability of family farms.

The second pilot action has started with the new Danish - Lithuanian Land Consolidation Project: “Land Consolidation - a Tool for Sustainable Rural Development”. This project with the overall objective to assist in land consolidation process that preconditions Lithuania's participation in the financing facilities of the EU has started in October 2002 and finished at the end of the year 2003, though implementation works because of various reasons were delayed and is at the final stage presently.

The immediate objectives of the project were:

- To develop land consolidation as a necessary tool for integrated rural development (nature and environmental protection, infrastructure development together with the development of competitive family farms);
- To spread the experiences with land consolidation before starting land consolidation all over Lithuania and to advise in the building up of institutions responsible for land consolidation and rural development (in-service training and capacity building);
- To continue the interaction between the preparation of the Law on Land and the field experiences from the pilot project areas;

- To test the registration and implementation part of the new Lithuanian legal frames for land consolidation;
- To create the Lithuanian land consolidation model.

For carrying on this pilot project 3 areas representing different priority needs for the further territorial development were selected. Meetings with the relevant local authorities at county, district or neighbourhood level were organised in order to discuss and give the input for preparation of the local rural development strategy. During the meetings with the landowners, preliminary investigations to identify landowners interests and public interests were carried out and local rural development strategies were prepared and approved by the local governments.

It was expected that the field experiences will be used for drafting the legal frames for land consolidation in Lithuania - a tool for sustainable rural development when through the territorial planning process improvement of agricultural structures and infrastructure will be achieved, also public interests will be fulfilled and environmental requirements met. Land consolidation plan should serve as a bridge between the ordinary territorial plan and implementation of the agricultural and rural development policy. That could be achieved through giving the priority for financial support from the EU structural funds to those landowners and users who take part in the land consolidation project.

Main legal provisions for land consolidation

For the period after completion of the restitution of land ownership rights the main principles for the land management and administration in Lithuania will be regulated by Law on Land approved by the Lithuanian Parliament (Seimas) on 27 January, 2004.

According to the general provisions, the main purpose of the Law on Land is:

- To regulate land ownership, management and use relations and land management and administration in the Republic of Lithuania;
- During the implementation of land management and administration policy, land relations should be regulated in such a way that:
 - the favourable conditions for fulfilment of public, private and legal persons' interests to rationally use land, carry on economic activities in conformity with the agro-environmental, nature and cultural heritage policy would be created;
 - protection of land ownership, management and use rights would be guaranteed.

The law consists of 10 chapters and the 9th chapter is regulating land consolidation. According to the law, land consolidation is defined as *a complex readjustment of land parcels when their boundaries and location are changed according to a land consolidation plan prepared for a certain territory, with an aim to enlarge land parcels, to form rational land holdings of farms and to improve their structure, to establish necessary infrastructure and to implement other goals and tasks of the agricultural and rural development as well as environment protection policy*.

The following order for providing land consolidation is foreseen in the law:

- The County Governor is responsible for the development of a land consolidation plan;
- Landowners shall file the applications to develop the land consolidation plan to the County Governor. Having established that at least 5 landowners wish to develop a plan in the same location and the area that is envisaged for land consolidation plan is no less than 100 hectares, the County Governor shall organise a meeting of owners of the land in this location;
- The meeting provides grounds on the need to develop a land consolidation plan and specifies a preliminary area for a land consolidation plan;
- Landowners within a period of 1 month after the meeting shall conclude a preliminary contract of land consolidation where according to it they are committed within 3 months after the approval of the plan to conclude a main contract of land consolidation;
- Owners of the land parcels included in the area of land consolidation plan shall conclude a contract of land consolidation not later than 3 months after the approval of the plan;
- The executor of the land consolidation plan is selected by the County Governor through the public tender procedure;
- The Government shall specify the procedure for the development of land consolidation plans (according to these provisions, a more precise Rules on Development and Implementation of Land Consolidation Plans is being drafted at present and in the nearest future will be approved by the Government of the Republic of Lithuania as the secondary legal act - Governmental Resolution. Afterwards the Technical Manual for practical execution purposes is planned to be developed.)

The County Governor also selects the free state owned land parcels that should be included into the land consolidation planning procedure. These land parcels, as well as the private land parcels participating in the land consolidation planning process will participate on the exchange basis.

If there is a willingness to buy some free state owned land within the land consolidation project area, this process will be regulated by the provisions laid down in the Provisional Law on Acquisition of Agricultural Land - mainly in regard to the priority for acquisition of the free state owned land. This law also lays down the rules for more favourable conditions for the acquisition of agricultural land through interest rate compensation for the bank credits taken for acquisition of agricultural land, as well as the state guarantee for such credits, and with restored savings for purchasing the agricultural land.

Financing

According to the Law on Land, as well as the Single Programming Document of 2004-2005 (where among the other sub-measures under the measure of "Promoting the adaptation of rural areas" there is also included a measure of "Land re-parcelling"), financing of land consolidation activities at the rate of 100 percent (75

percent EU funding and 25 percent national contribution) is foreseen from the EU structural funds from the year 2005.

Short-term preparatory activities

- Adoption of the secondary legislation - Governmental Resolution of the Rules on Development and Implementation of Land Consolidation Plans;
- Organization and providing of educational training courses for the land surveyors who are seeking for the certification and licensing to carry on land consolidation plans in the future;
- Organization and providing of educational training courses for the staff of the county governor's administration and other persons involved in organisation and supervision of the land consolidation process;
- Organization and providing of vocational training courses and seminars for potential participants in the land consolidation planning procedure;
- Information and advertising campaigning – brochures, articles in the newspapers, magazines, participation in the radio, TV programmes;
- Development of the Technical Manual (for all parties involved) for practical execution of land consolidation plans.

Possible risks

Even though preparations for land consolidation in Lithuania are underway, it is already possible to identify the main risks for the smooth start of this process at a large scale in the whole territory of Lithuania. These risks could be grouped as follows:

- Too few civil servants at the central level available for building-up the land consolidation mechanism and spreading the related official information to regional and local level, to the society and other related governmental institutions and also informing politicians;
- Lack of knowledge and consciousness among the policy and decision makers about the possibility to use land consolidation as a tool in order to achieve wider objectives related to sustainable agriculture and rural development;
- Lack of general information among the rural population as well as future actors from all the levels of the related State institutions about the land consolidation and its benefits;
- Absence of a strong co-ordinating body for land consolidation consisting of representatives from European countries' governmental institutions, national and international development agencies, professional associations, NGOs, private sector, universities and research institutions in order to promote and strengthen the positive movement on proving land consolidation as a tool for sustainable rural development (this issue was widely investigated and discussed by FAO during recent years). Such a co-ordinating body should have assigned certain rights in order to influence land consolidation as an integrated rural development approach.