

## **Problems and perspectives of consolidation of land in Ukraine**

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The international conference in Prague on the “EU Rural Development Programmeme 2007-2013 and its application to land consolidation” is the latest part of the work carried out on the issue over several years with the support of the Food and Agriculture Organization of the United Nations (FAO) and the Ministry of Agriculture of Czech Republic.

Therefore our aim is, not diminishing existing problems and modest success in the establishment of market relations in the agrarian sector of Ukraine, to outline to some extent the possible prospects of further civilized institutional development of land relations, which certify the right of ownership for agricultural land, contribute to the safeguarding of land and conservation of environment, promote the competitiveness of agricultural production, quality and safety of food and stimulate rural development.

No doubt, without understanding the essence of consolidation of land at present time it is impossible to effectively manage land resources in the transition to market economy.

At three previous international workshops on these issues, which took place in Prague and Nitra in 2005-2006, we had tried to present maximally objectively the legal, organizational and institutional actions of the Government related to the consolidation of land and to show impartiality the “bottlenecks”, as well as present the perspective ways of solving this extremely complicated political, social and economic problem for Ukraine.

**Country information:** Ukraine occupies the area of 603.000 sq. km, which is 5,7 percent of the territory of Europe and almost 0,5 percent of the Earth. The population is 47 million. Agricultural lands are 70% of the territory of Ukraine, including ploughed land – 54%, pastures – 9%, tame hay – 4% and perennial planting – 2%. The climate conditions and good soils (one third of the World’s reserves of black soil or 54% of own lands) are very favourable for agricultural production. That is why there is the highest level of ploughed soils in Europe – near 78%.

In Ukraine there are over 28,5 thousand rural settlements, whose permanent population leads rural way of living and is mostly employed in agricultural production. In the process of implementation of land reform and distribution of agricultural land 6,8 million villagers became the owners of land plots (shares) with the average size of 4 ha. The country’s agricultural land provision per capita is 0,8 ha, of which 0,64 ha is arable.

55 percents of rural population are employed mainly in forest and fish agriculture, of which 23 percent work in their individual households. In addition, 15 percents of rural inhabitants are employed in the area of education and healthcare, 11 percents – in food and processing industry, 6 percents – in trade. Over 76 percents of rural population are hired workers and only about 20 percents are permanently self-employed mainly on land plots for individual household and farm production.

Land and agrarian reform in Ukraine was conducted in the legal framework based on the Laws “On the land reform in Ukraine ”(1990), Land Code of Ukraine (1992, 2001), “On economic entities” (1992), On the land lease (1998), “On farmer’s enterprise” (2003), “On individual household” (2003), Decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine in compliance with the Constitution of Ukraine (1996).

As a result of implementing the agrarian reform three basic types of agricultural entities were formed: small individual households – 6,5 million; middle-sized farms – 43.000; and large economic entities – 17.000.

Land was consolidated in three natural ways: through rent of land by middle-sized farmer’s enterprises and large economic entities, and also through expansion of small individual households at the expense of land shares of their members.

The legislative process for forming the rules in the land market already lasts a few years. The Parliament has adopted the Law “On the State land cadastre”, the draft law “On the market of land” has passed the first reading. The question was raised about the development of legal mechanisms of its functioning, including the system of registration of rights for ownership of the real property including land, buy and sell rules, land hypothecation with the leased land in the first place, etc. The first practical steps were taken to differentiate the state and communal land.

The State Committee of Land Resources of Ukraine has developed the draft State Programme of Development of Land Relations in Ukraine for 2006-2015 in development of recommendations of the Parliamentary hearings “Current state and prospects for development of land relations in Ukraine” (2005), Decrees of the President of Ukraine “On decision of the National Security and Defence Council of Ukraine” of 29 June 2005, “On the condition of enforcement of the law and measures to improve the effectiveness of state policy in the sphere of regulation of land relations, use and protection of land” of 21.11.2005. The draft Programme was developed with aim of implementing the state policy on development of market land relations, implementing the priority measures in the field of land use and protection, implementing modern automated system for land titling, which would guaranty land ownership rights, providing for civilized land market, raising of investment attraction of Ukrainian land use. The draft Programme included a list of measures and tasks with specifying the performers, terms of implementation, volumes and sources of their finance.

However, no special state policy for consolidation of land was produced in Ukraine. We applied for support on the issue to the central office of FAO in Rome. We were then supported by the Ministry of agrarian policy of Ukraine.

To this date the issuance of state acts for villagers certifying the right of ownership of land is not completed. They are not yet obtained by over 10 percent of owners of land shares. Unsolved problems also include the lack of legal and regulatory mechanisms for hypothecation of leased land shares, determination of land plots upon withdrawal of their owners from the integral land pools, lack of institutional basis for registration of land and hypothecation, etc. The problem of large-scale cartographic provision of territories, which is the mandatory condition of the European Union for candidate countries has not been solved. The database for introduction of the International system of coordinates for cartographic works with the modern methods of the global position systems (GPS) is not created. In this context, as we have already mentioned, no integrated system of registration of land plots and

other real estate as an integral object was created, neither the automated system of record the State land cadastre.

This situation is largely conditioned by long anticipated administrative reform of state organs of management of agricultural and land resources. In January 2007 the Cabinet of Ministers of Ukraine by its resolution № 69 “On reorganization of the State committee for land resources of Ukraine (Derzhkomzem) into the State agency for land resources” subordinated this central organ of executive power to the Ministry of Protection of Natural Environment of Ukraine. This step of the Government was not supported by over 10.000 employees of the now abolished “Derzhkomzem” and by the Parliament of Ukraine. The Committee on issues of agrarian policy and land relations of the Parliament of Ukraine suggested to create the State Committee of the land policy of Ukraine based on “Derzhkomzem”, transferring under its roof the Government service for geodesy, cartography and cadastre, State technological center for protection of fertility of soils and Ukrainian institute of agricultural aero-photo-geodesic research. Another part of influential parliamentarians suggested to unite Derzhkomzem, Derzhlisgosp (State Forestry), State Inspection for control of the use and protection of land, State service for geodesy, cartography and cadastre into the Ministry of Land Relations of Ukraine.

Uncertainty of politicians, miscoordination of governmental officials in the field of land and forest resources, topographic-geodesic and cartographic research do not contribute to solving of the problem of settlement of land relations, and inclusion of agricultural land into economic turnover.

Considering impermissible the existence of two identical databases – the State register of rights for immovable property and their limitations and the State land cadastre, double land cadastre documentation (land book, book of records of registration of state acts and agreements of tenancy of land, duty cadastre plan and additional information) both by the central organ of executive power and organs of local self-administration, the President of Ukraine has recently vetoed the law accepted by the Parliament “On the State Land Cadastre”.

As a result the World Bank suspended financing of the project for privatization of land, issuance of State certificates for land ownership and creation of the State land cadastre.

The Parliament of Ukraine until now was not able to pass the Law “On the State Land Hypothecation Bank”, creation and functioning of which is stipulated by the Land Code of Ukraine (2001), though the necessity for its adoption was specifically emphasized in the Recommendations of parliamentary hearings “Current condition and prospects for development of land relations in Ukraine” (2005).

This Bank, in our opinion, could execute control functions for the observance of law in the process of forfeit of land by a creditor bank in the case of not repaying the loan the borrower – land owner, refinance of commercial banks, which issue loans secured by land for the owners of individual households and farmer’s enterprises, agricultural enterprises, issue of mortgage bonds and other functions of adjusting of the land market. According to Ukrainian and foreign experts, the estimated worth of agricultural lands in Ukraine (30 million ha) is 60-70 billion Euro. This is an enormous “credit portfolio” of the future Land Hypothecation Bank of Ukraine. Even at 70 percent hypothecation provision a long-term 10-year credit resource would make 42-49 billion Euro or 25-30 billion of Hryvnya (UAH) annually, with

the current economists' estimated need of the whole agrarian sector of Ukraine at the level 10-12 billion of hrn (UAH). Undoubtedly this would radically accelerate technical and technological modernization of agricultural production, promote its profitability and would influence substantially the level of life of people in the rural area and its social infrastructure. The "start-up capital" of the Land Hypothecation Bank could be formed by Ukrainian Government and Parliament by providing appropriate allocations from the State budget of Ukraine and, possibly, investors (up to 49 percents of share package). The creation of the Land Bank in Ukraine without involvement of financial-credit resources of international banks seems dubious.

Nevertheless, even if all of these and many other problems are solved, time is needed for training and preparation of realtors, elucidation to the land proprietors of provisions of legal and regulatory acts and mechanisms of their realization, bringing into this process of agricultural extension personnel and extension services.

In 2004 the Act on continuation of the Moratorium on purchase and sale of land till 01 January 2007 was passed; at the end of 2006 the Parliament of Ukraine by constitutional majority again prolonged its action already till 01 January 2008. In its turn it complicated the problem of long-term hypothec lending to agricultural producers, practically driving them to a deadlock, from where it will be more difficult to get out.

According to sociological polls 37,5 percent of Ukrainians believe that without proper legislative provisions for the purchase and sale of agricultural land it cannot be allowed. Some 45,2 percent of respondents forecast negative consequences of introduction of free land market. Such social tendency is provoked by a real growth of the number of "latifundia", which already use for agricultural production from 10 to 200 thousand hectares of agricultural lands.

The question "what to do?" we answered at previous seminars: to continuously implement the land reform, defining specific state and social priorities. In particular, completion of the issuance of state certificates for ownership of land to villagers and development of the strategy for consolidation of land shares, forming of legal principles of functioning of the land market, institutional development of the land market infrastructure, information and extension service provisions for subjects of the land market.

Experience of the countries with transitional economy in the Central and Eastern Europe on this extremely important issue from the point of view of economy, and extremely difficult from the political and social standpoints, is not only useful but also instructive for the Ukrainian scientific, entrepreneurial and political elite, which forms the opinion on the integration of Ukraine into WTO and the European Union.