

The State of Land Fragmentation and Land Management in Lithuania

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I. CURRENT SITUATION

Existing land legislation

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** (this law 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);
- **Provisional Law on State Aid for Acquisition of Agricultural Land** (objective of this law is to develop favourable conditions 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).

Extent of land fragmentation

According to the data of the State Land Cadastre, for the 1st of January 2003 the **average area of the land parcel used for agricultural activities** was **4,2 ha** and the **average area of a land parcel belonging to one owner** was **6 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 - **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 thousand (83 percent of total) are up to 10 ha. The **medium size farms** (10-50 ha) made 43 thousand 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 thousand 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 thousand), while the average size of the family farms was 5,5 ha (total number - 233 thousand). 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).

Organisational structure of land management and administration

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 georeferencial databases.

National Land Service under the Ministry of Agriculture is directly responsible for developing 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, as well as the land cadastre. 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.

Existing land management practices and procedures

The **restitution of land ownership rights** in Lithuania started in 1991 with the purpose to completely rearrange land management system so that newly built land 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 was restituted to the former owners and their successors in three ways:

- in kind;
- in equivalent;
- compensation.

The **process of the land restitution contains:**

- analysis of the existing land use situation;
- preparatory land management works;
- preparation of the land reform land management plans;
- publicity procedure and the approval of the plan;
- surveying in the fields;
- preparation of the legal documentation of ownership;
- approval by the notary and registration in the State land cadastre.

In this process there are involved several institutions: as a main responsible for implementation body – **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. 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 Center of Registers**.

Restitution of land ownership rights is at its final stage though the most difficult cases for settling the applications have remained. For the 1st of January 2004, total number of applications submitted for restitution of land ownership rights in rural area was about 741 thousand to the total area of land amounting to 4,2 million hectares. Land ownership rights have been restored to 87,5 percent of land (3,58 million hectares). Thus land ownership rights have not been restored yet to 0.61 million hectares.

Though 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. This fact 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.

Seimas has adopted the amendments to the 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 will be removed. Foreigners and foreign legal persons will be 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 7 years transitional was reached. The exception will be provided to the farmers of the EU Member States who have resided in Lithuania for at least 3 years on a permanent basis and have engaged in agriculture.

Preparation for the 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 didn't use their land. After negotiations with the landowners it appeared that 19 of them have agreed to take part in the project. 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 with some delay (because of many reasons) is about to finish (the official end of the project was the end of the year 2003).

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 advice 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 Management and Administration with the legal frames for land consolidation (later on it was incorporated into the Law on Land that recently was adopted by Seimas) and the field experiences from three 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.

II. STRATEGY FOR THE LAND CONSOLIDATION

Legal framework

For the period after completion of the restitution of land ownership rights main principles for the land management and administration were supposed to be provided in the new Law on Land Management and Administration. Lithuanian Government has approved concept of this law on 31st May 2002 and drafting of the law has started. Though when this draft has reached Seimas, it was decided to incorporate provisions of this law into the main law regulating land management and administration in Lithuania - **Law on Land** (at that time it was under the new revision in order to

prepare the legal basis for the land management after the EU accession). A special working group was established in Seimas and a joint Law on Land was drafted. Seimas has approved the new Law on Land on the 27th of 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 management 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:

- 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;
- Land owners 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 not later than within 3 months after the approval of the plan shall conclude a contract of land consolidation;
- The executor of the land consolidation plan is being selected by the County Governor through the public tender procedure;
- The Government shall specify the procedure for the development of land consolidation plans.

The County Governor also selects that free state owned land parcels to 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 will be 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 regards to the priority for acquisition of the free state owned land.

Provisional Law on State Aid for Acquisition of Agricultural Land 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 draft of the Single Programming Document (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 is foreseen from the EU structural funds from the year 2005.

Possible risks

Even though preparations for land consolidation in Lithuania are underway, but 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:

- Incoherence between certain provisions on sales and lease of state owned agricultural land regulated by several laws in Lithuania (for this particular purpose a special PHARE Twinning-Light Project "Institutional, organisational and legal framework for the lease and sale of state owned agricultural land in the Republic of Lithuania" was launched on the 27th of January, 2004. The project will last for 7 month and the project partners - German Agriforest privatisation Agency (BVVG) - together with the National Service under the Ministry of Agriculture will try to develop recommendations for the improvements in the relevant sector);
- Too little civil servants at central level at present 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 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 initiated by FAO during recent years. Such a co-ordinating body should have assigned certain rights in order to influence the land consolidation process in interested countries.