

Study of an approach in land consolidation in Kosovo financed by European Agency for Reconstruction

Murat Meha
Kosovo Cadastral Agency

Abstract

Land regulation especially Land Consolidation in Kosovo has multi-dimensional importance for the local economy. This is the view in this presentation that discusses the main concept of Land Consolidation to be developed in Kosovo.

The possibilities of progress and development of agriculture is based in some valuable circumstances as follow:

- 1 Good climatic conditions,
- 2 Enough human capacities for agriculture works,
- 3 Agriculture products could be competitive and ecological,

Priority and weakness of development of land consolidation proposed from European Agency for Reconstruction (AER) will be described in work continuation. Analysis and discussion for development of land consolidation is envisaged between local experts that have experience in land consolidation and international experts in the pilot project. Different background and experience of local professionals and international experts should result in better solutions for land consolidation under the new conditions in Kosovo. There are a lot of open and debatable issues. I am not waiting that all this issues will be solved with this project but I hope that there will be created perspectives for new projects, from detailed plan to implementation.

1. Parcels and infrastructure in rural zones in Kosovo

Kosovo has an area of 10908 km². From the total area only parcels with cultivable land and meadows will be considered as agricultural land important for Land Consolidation. Of this land there are according to the Cadastre 1 044 289 parcels that covering around 35% of the area. From this comes the medium size of agriculture land parcel at 0,36 ha. As it is, the number of parcels in the field is much more then in cadastral documents^{[1][2]}. Therefore in a rural area considered as agricultural land important for Land Consolidation the number of parcels is about 23% more than in cadastral documents. It means that average size of parcel is less than 0,30 ha. The shape and size of these parcels is not so good for agriculture using. Parcel fragmentation is ongoing due to a lot of circumstances, which means that the average area of agricultural land parcels is being reduced.

In this case we could make general questions as the first question: ***How to stop this trend with high negative influence in agriculture?***

The form of the parcels in the field varies, but a huge number of them do not have the regular geometric form. A general limitation for use agriculture land in Kosovo is poor road infrastructure. Figure 1 displays an area of agriculture land from where we could see the lack of road infrastructure.

From this view and the other views we could make the second question: ***Should we implement Land Consolidation without regulation of road infrastructure?***

According to agricultural experts many crops lack water in the growing season and irrigation should be applied to the extent possible. There are 142 km open channel of river Ibri in Kosovo from the lake of Radoniqi. Also there exists the high possibility of irrigation through rivers in the Dugagjini's region and in Kosovo's region.

These components of agricultural development must absolutely be used from where we could make the third question: ***Should Land Consolidation in Kosovo be implemented without Land melioration?***

Development and advance of production capacities in agriculture requires clear analysis of land melioration and in combination with a future strategy of Land Consolidation.

Fig 1. Existing situation of parcels in the field- no infrastructure



2. The legal framework for land consolidation in Kosovo

Kosovo is in a particular legislative situation. The new Law on Agricultural Land is approved by The Assembly but not yet promulgated by UNMIK and it is uncertain when this will happen. The new Law has provisions for land consolidation and empowers the MAFRD to issue administrative instructions on land consolidation. Yet at the same time the Law on Land Consolidation from 1987 is still in effect.

Nonetheless, important pre-requisites for land consolidation are being established as the cadastral system has been developed over recent years. The European Agency for Reconstruction (AER) has during last six years supported with different projects of reconstruction and development of Kosovo.

The inconsistency between cadastral data and the actual situation in the field and continued problem of documentation removed to Serbia made the Kosovo Cadastral Agency prepare a

project regarding Cadastre Reconstruction. Cadastre Reconstruction as process has started with three pilot projects that are now completed.

These achievements prepare the ground for land consolidation in improving the cadastral records and in developing a methodology to clarify or re-construct ownership when documentation is absent or insufficient.

The challenge is now to design or devise a methodology for land consolidation, draft the administrative instructions and establish the capacity for implementation.

A sustainable model for land consolidation for countries in transition should have some resistant and stable characteristics as follows:

- Sufficient legal base (for Land Consolidation);
- Good base of cadastral documentation of the actual situation in the field,
- Community information and knowledge with Land Consolidation,
- Presentation to the owners the strategy and benefits from such Land Consolidation,
- Implementation and functionality of Land Consolidation,
- Long term sustainability (of Land Consolidation in Kosovo).

Some of these requirements are partly fulfilled and some require continued attention and effort of institutions, especially Ministry of Agriculture, Kosovo Cadastral Agency and the Ministry of Environment and Spatial Planning. Coordination of activities of these institutions is important for successful for land consolidation.

Key questions include: Who should take any initiative to Land Consolidation, who shall implement Land Consolidation and there is a need to define the rules and regulations for land consolidation ^[4]. This awaits the approval of the Law on Agricultural Land and the decision of which institution will make Land Consolidation functional. Also there is the critical issue of financing land consolidation.

There is no specific solution to the institutional framework for land consolidation. It is evident that countries that have the same level of development do not have the same model of Land Consolidation because their models are based on historic circumstance of the country with respect to existing cadastre or land registration and other circumstances.

For example, in Germany for the land consolidation is *an independent agency* “Landgesellschaft” in each regional state. France has a formal set-up somewhat like the German with *an independent agency* providing services for other agencies. Norway has its own particular system for land consolidation in special system of land court. Land consolidation in Sweden is an activity that is performed by *the Swedish national cadastral and mapping agency*. In Denmark the Land Consolidation Division (LCD) is *a division under the Ministry of Food, Agriculture and Fisheries*.

This illustrates how each country finds its particular model depending their history, context of land registration, geography, and other circumstances. So, also Kosovo will have to develop its own model.

3. Pilot project in land consolidation on voluntary basis

The pilot project in land consolidation is one component in the Agricultural Land Use Project

(ALUP) financed by the European Agency of Reconstruction (EAR). The ALUP project was initiated in February 2006 and aims to facilitate improved use of agricultural land by strengthening legislative capacity, land consolidation, spatial planning, and by promoting land leasing.

The pilot land consolidation will be based on a general principle of voluntary participation. Models of Land Consolidation on a voluntary base have a history in some western European countries. For example, this approach was successful in Danish agricultural development. The pilot project states the principle as follows:

The principle of voluntary land consolidation means a shift from enforcing land consolidation to making land consolidation attractive. Therefore, there must be an incentive. The incentive is that interested farmers and owners in the area are offered free transaction costs and free assistance by a professional. This is seen as a critical assumption for the approach. The concrete rules for land consolidation in the pilot area will be worked out and agreed with involved stakeholders.

The voluntary approach to land consolidation based on Agricultural Land Utilization Project ^[7] has certain basic legal characteristics:

- 1 Owners have the right to enter into transactions of exchange, but also the right to refrain.
- 2 An owner is only committed when signing an agreement that specifies land exchanges. Owners are, therefore, not committed at the outset of the project and they are still free to consider options during the negotiation stage.
- 3 As owners only join the land consolidation on such voluntary basis there will be no appeal cases.
- 4 The procedure does not contain a requirement that value before = value after. Differences in value can be evened out in cash payments.
- 5 The transactions are implemented according to the same procedure as for any other property transaction of selling and buying.

The critical aspect is what people can agree upon and afford. The project contribution is a technique for screening and mediation of individual preferences and for handling a large number of simultaneous selling and buying.

A pilot area has been identified where there is a clear commitment from the Municipality. The cadastral records exist, farmland is fragmented and there are clear indications of farmers interest. Direct information, consultation and negotiations with the farmers will begin in May 2006.

The pilot project will reveal to which extent farmers are in fact interested in and able to exchange lands and create better located and shaped fields. If only few participate there will be a limited scope for consolidation improvements. A particular aspect to be clarified is that of "land mobility": It appears that there are many small and subsistence oriented farmers. They may not want to sell land and they may not be in a position to buy. It, therefore, remains to be seen to which extent farm size can be increased for those farmers who want to be more commercial.

Some linkages to other ongoing rural development projects have been discovered and there is a basis for sharing experience. For example, an EAR financed project supports farmers in

improving irrigation practices and the project has organized farmers in water user associations some of which are in the pilot area. Such organization provides a good basis for land consolidation. Another issue is forests. It appears that private as well as state forest is also fragmented and that land consolidation is equally relevant for forests. A third aspect is road construction. There are plans for construction of a new main road and land consolidation is relevant as part of compensation and re-design of affected properties and future access ^{[3][6]}.

4. Possibilities and risk for development of voluntary land consolidation in Kosovo

Also in this case it is the first initiative for Land Consolidation in Kosovo during this millennium and we should be really thankful for it.

Voluntary Land Consolidation I would like more to call it easy version of Land Consolidation favoured by the European Agency for Reconstruction from which it will be financed and there exist possibilities and risks.

Possibilities of voluntary Land Consolidation in Kosovo according analyzes are as follows:

- To start to create positive opinion regarding regulation of lands is very important element because in Kosovo does not have Land Consolidation since the 1980s.
- Contribution regarding concept of a competitive land market.
- Contribution on mortgaging concept.
- Voluntary Land Consolidation will be for a nuance more than Cadastre and contribution in Cadastre reconstruction.
- Contribution to the Cadastral system with the data from the agriculture system.
- Reorganization of land with saving it from degrading and pollution

Risks of voluntary (as a light) Land Consolidation in Kosovo are displayed as follows:

- Lack of interest of community for such Land Consolidation.
- Lot of complexities related with immovable properties and their signing in the court.
- Limited possibility for changes in the field and to cover costs regarding parcels boundaries changes.
- Removal of wide boundaries between parcels and its fixing.
- Impossibility to force individually community for participation in this light Land Consolidation.
- Non-development of road infrastructure, no additional investment in infrastructure like roads, nor in farm improvements, nor in village development and there is the limitation that not all will participate.
- Impossibility of development of irrigation together with light Land Consolidation.

Summary

Risks of light/voluntary version of Land Consolidation should be assessed and analyse how to avoided negative experience. A failure would be reflected for a long term of time. This is important because of the proposed light/voluntary Land Consolidation is in between of Cadastre Reconstruction and itself Land Consolidation.

This project is funded by European Union, therefore I would like to thank them very much. The end of this pilot project will find a solution for work on land consolidation for a long term, will agree on principles and procedures of new form of Land Consolidation in Kosovo.

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