



Food and Agriculture Organization
of the United Nations

Keynote: Legislating for land consolidation

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Regional Consultation on Land Consolidation Legislation
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Food and Agriculture Organization
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Overview

1. Links with the SDGs and Governance of Tenure Guidelines
 2. Why legislation is needed on land consolidation?
What happens without specific legal provisions?
 3. The two main approaches to land consolidation
 4. The three standard phases of land consolidation
 5. Objectives and principles of land consolidation
 6. Context for the rest of the day and tomorrow
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Sustainable Development Goals and land consolidation

Possible positive impacts on

- SDG 1 – No poverty
- SDG 2 – Zero hunger and sustainable agriculture
- SDG 5 – Gender equality
- SDG 10 – Reduced inequalities
- SDG 13 – Climate action
- SDG 15 – Life on land
- SDG 16 – Peace and justice
- SDG 17 – Partnerships for the Goals



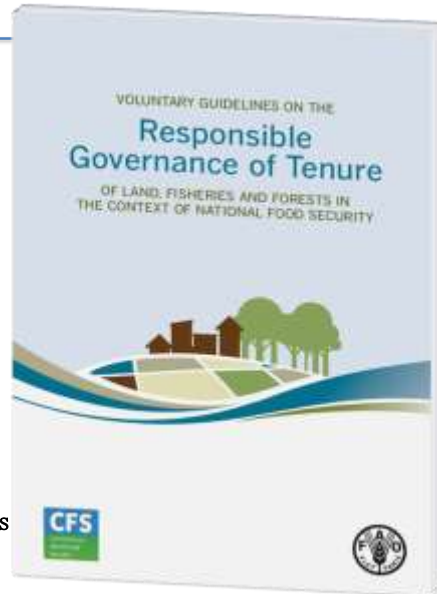
SDG 5 – Women's empowerment



- Legal and de facto indicators on land ownership and control by women
- Opportunities for land consolidation processes to influence situation on the ground, e.g. through joint registration, ensure spousal consent and women's participation
- Last session of this workshop will focus on gender and land developments in the Western Balkans



- Endorsed by Committee on World Food Security in 2012
- Soft law instrument based on hard law and best practice
- Respect, protect and facilitate enjoyment of all legitimate tenure rights, with a focus on those disadvantaged or discriminated against
- Implementation principles (procedural rights)
- Specific section on land consolidation and related approaches



Relevant FAO Technical Guides





Why there is there need for land consolidation law

- Legal certainty about mandates and roles
 - Legally determined procedures and principles
 - Simultaneous registration of a single plan
 - Possibility of achieving public good objectives (especially for majority based approaches)
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What happens if there is no law

The land consolidation Lead Agency could still facilitate voluntary land consolidation projects but:

- Each step in the process would be more cumbersome, including feasibility, information about legitimate rights holders, registration, corrections etc
 - Each transaction would have to be registered individually at increased cost
 - Risk that the Plan will fall apart as a house of cards
 - Majority based land consolidation would be highly dubious from the point of view of respect for legitimate tenure rights (including constitutional protection of property rights)
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What can a land consolidation law do?

- Establish and designate institutional responsibilities
 - Provide for legitimate objectives and principles to be followed
 - Ensure that the process is as cost-effective as possible
 - Provide legal certainty and ensure the respect for the rights of all
 - Provide for administrative and judicial remedies
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Legal approaches to land consolidation

- Separate law on land consolidation (and regulations as needed)
 - Separate chapter on land consolidation in a broader land law (and regulations as needed)
 - No specific law on land consolidation, but provisions to facilitate land consolidation in agriculture, registration, taxation law etc.
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The three phases of land consolidation

- Feasibility
 - Initial stage to assess interest, cost-benefits and environmental impact: this can save a lot of money
 - Re-allotment
 - Precise mapping of all holdings, ascertaining wishes of landowners, facilitating negotiations, finding solutions leading to everyone is “at least as well off after as before”
 - Implementation
 - Approval of final plan, registration of new ownership, field and infrastructure works
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Main approaches to land consolidation

- Voluntary - no changes made unless every landowner agrees
- Majority-based - FAO recommends support from at least 75% of owners controlling at least 2/3 of land area

Main difference:

- Element of coercion in majority-based
 - Leading to the necessity for safeguards and appeals
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Objectives in land consolidation law

Land consolidation law normally provides for the objectives of land consolidation - i.e. what it is meant to achieve; what are legitimate aims

- Improved agriculture
 - Parcel size, shape, number
 - Distance between new parcels and to homes
 - Irrigation and feeder roads
- Environmental benefits - reclaim forests, wetlands etc.
- Infrastructure - roads, railways etc.

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Principles in land consolidation law

From VGGT 13:

- “At least as well off” (principle of substance)

From VGGT Implementation Principles (process principles)

- Transparency and access to information
- Participation and consultation
- Gender equality
- Environmental protection

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FAO's legal work on land consolidation

- Support legal assessments to determine strategic directions and adopt national strategy
 - Support assessment of existing law on land consolidation
 - Support drafting or amending law on land consolidation
 - Support implementation of pilots
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Guide on drafting land consolidation law

- To be discussed in detail tomorrow
 - Based on FAO experience and comparative legal research into best practices in Europe
 - Your active participation is key!
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Good legal practices (1)

- Ensuring constitutionality of LC (German case law)
 - Dealing with third party rights – mortgages, usufructs, lease, creditor rights, purchase rights, disputed claims (Germany)
 - Regulating valuation (Netherlands)
 - Ensuring integration with rural development (Netherlands)
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Good legal practices (2)

- Adoption of a single land consolidation plan as a basis for registration (Denmark)
 - Dealing with unclear ownership and cleaning up registries (Denmark)
 - Consultations, participation and negotiations in majority based land consolidation (Finland)
 - Regulating voluntary land exchanges (Finland)
 - Regulating ex-post impact assessments (Finland)
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Good legal practices (3)

- Dealing with “private common land” in land consolidation (Galicia, Spain)
- Combining land consolidation with other rural development instruments (Galicia, Spain)
- Regularization through land consolidation (Galicia, Spain and Turkey)
- Dealing with unknown ownership (Turkey)
- Legal mechanisms for EU co-financing (Lithuania)



Thank you for your attention

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