



FAO recommendations for land consolidation legislation in Ukraine

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FAO project to support development of land consolidation legislation in Ukraine implemented during 2017 - 2018

Three project components planned under TCP/UKR/3601:

1. Assessment of the current legal and institutional framework as it relates to land consolidation and development of the agricultural land market - **review draft Law on land consolidation.**
2. Feasibility study of the options for land consolidation in two potential pilot areas in Kyiv and Kherson Oblast.
3. Formulation of a detailed concept note for subsequent donor-funded land consolidation project.

StateGeoCadastre and Ministry of Agrarian Policy and Food are the main beneficiaries.



Ukraine country context

- Land reform is not completed and a moratorium exists on the agricultural land market (no formal market).
 - Low level of both ownership and land use fragmentation.
 - The farm structures are still dominated by large-scale agro-holdings.
 - Strong concern about land fragmentation when the land market will open - “parcel in the middle problem”.
 - Land consolidation is by many seen as a tool to prevent from land fragmentation.
 - Difficult political situation.
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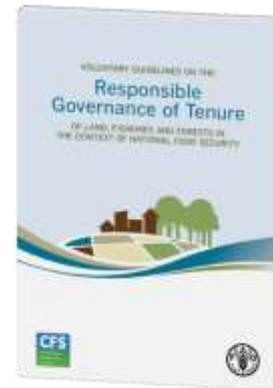
Five minimum requirements for having an operational land consolidation programme

1. Land consolidation is embedded in the overall land policy.
 2. Legal framework for land consolidation has been adopted.
 3. Public lead agency for land consolidation has been established and delegated the task to manage the programme.
 4. Secured funding on an annual basis.
 5. Technical and administrative capacity has been developed for both field work and to manage programme.
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The Voluntary Guidelines on the Responsible Governance of Tenure (VGGT)

- Endorsed in May 2012 by CFS on behalf of all UN member countries
- First international document on governance of tenure.
- A reference to improve governance of tenure based on international best practice.
- To protect all legitimate tenure rights.
- All FAO projects to be in line with VGGT.



VGGTs Part 4, Section 13, is on Land Consolidation:

- Land consolidation is to assist owners and users to improve the layout and use of their parcels or holdings (reduce fragmentation and increase farm sizes).
 - A key principle to ensure that participants are at least as well off after the schemes as before.
 - Land consolidation for agricultural development but also for local rural development (e.g. infrastructure and environmental protection and multi-functionality).
 - Promotes development and adoption of national land consolidation strategies.
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Background for FAO support to development of land consolidation legislation

- Initially the draft Law on Land Consolidation was expected to be part of the legal package for opening the agricultural land market from beginning of 2018 - moratorium extended.
 - FAO has screened existing legal and institutional framework related to land consolidation for compliance with VGGT.
 - Policy recommendations provided based of outcome of feasibility study in Festiv and Belozerskii Rayons.
 - The project contributes to VGGT implementation in Ukraine.
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Main findings of FAO review of draft Law on land consolidation (March 2017 version) # 1

- Land consolidation will not be able to consolidate land in Ukraine in the same pace as land fragmentation will developed when the market is opened.
 - Land consolidation legislation should be fully in line with VGGT and international best practice – FAO’s assessment is that this was not the case with the analyzed draft law.
 - The draft law is focusing only on agricultural development in the most limited way. It is recommended to introduce land consolidation with a multi-functional objective.
 - It is recommended to integrate land consolidation with broader local development needs and priorities.
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Main findings of FAO review of draft Law on land consolidation (March 2017 version) # 2

- The draft Law on land consolidation introduces land consolidation in both a voluntary and majority-based approach. FAO recommends in the current situation in Ukraine to introduce land consolidation only in a voluntary approach (at least to begin with).
 - It is strongly recommended to develop and include in the draft law provisions that in a clear and transparent way will regulate establishment and function of decision-making bodies in land consolidation projects.
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Main findings of FAO review of draft Law on land consolidation (March 2017 version) # 3

- Proper safeguards should be introduced to protect legitimate tenure rights.
 - It is the assessment of FAO that the safeguards for infringement of tenure rights in case of majority-based LC in the draft law are weak.
 - It is strongly recommended that in case of majority-based LC, that 75 % of the legitimate landowners representing at least 75 % of agricultural land in the project area should agree before approval and implementation.
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Initial findings of FAO review of draft Law on land consolidation (October 2018 version) # 1

- The objective of LC is slightly broader (protection of land, environment and landscape).
- Still both compulsory and voluntary LC included (Article 5.2 & 5.3).
- Introduction of local government LC Commission to ensure negotiations with right holders and public display of LC plan.
- Commission can decide about compulsory implementation.
- 75 % of right holders to give written consent (Article 12.4). It was 25 % in the first draft law.
- LC plan cannot be approved and must be revised if more than 25 % of right holders do not support it (Article 12.4).
- Second draft law more in line with VGGT.



Thank you very much!

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FAO Regional Initiative on Empowering Smallholders and Family Farms:

<http://www.fao.org/europe/regional-initiatives/smallholders-family-farms/en/>

Proceedings from LANDNET workshops 2002 – 2018:

<http://www.fao.org/europe/resources/land-tenure-workshops/en/>

VGGT and Governance of Tenure:

<http://www.fao.org/nr/tenure/en/>

Papers on land reform and land consolidation in CEE:

<https://aalborg.academia.edu/MortenHartvigsen>
