



Land Consolidation Legislation: FAO Legal Guide and its Application at the Country Level

A Webinar Report



Food and Agriculture
Organization of the
United Nations



www.landportal.org



Land consolidation is a well-proven land management instrument, which has traditionally been used for agricultural development with a main objective of reducing land fragmentation and increasing holding and farm sizes. Some European countries have a land consolidation tradition that goes back a hundred years or more. It is also widespread in particular in countries in Asia but also in Africa. In the last decades, countries in Western Europe have developed land consolidation into a multi-purpose instrument with a broader objective. Multi-purpose

land consolidation can facilitate the implementation of projects related to nature restoration, climate change adaptation and mitigation and large-scale infrastructure projects where land consolidation provides an opportunity to compensate landowners and farmers in land instead of monetary compensation.

After the political changes in Central and Eastern Europe (CEE) around 1990, land reforms were in most of these countries high on the political agenda. Many CEE countries have today farm structures characterized by excessive land fragmentation and small average farm sizes. These structural problems are often hindering development of smallholder farms into commercial family farms. From the mid-1990s and onwards, many CEE countries have introduced land consolidation mainly as an instrument to address the structural problems.

The webinar served to support the application and implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) and achieving SDG targets such as 1.4, 2.3 and 5.a. The objective of this discussion was to promote good land consolidation practices and the practical application of the FAO Legal Guide on Land Consolidation. (<http://www.fao.org/3/ca9520en/CA9520EN.pdf>)

Facilitator: Morten Hartvigsen - Land Tenure Officer at FAO Regional Office for Europe and Central Asia

Speakers: Margret Vidar, FAO Headquarters

- Marije Louwsma, FIG Commission 8
- Raimund Jehle, FAO REU
- Frank van Holst, Netherlands Enterprise Agency
- Kristina Mitic Arsova, FAO North Macedonia
- Tomas Versinkas, FAO International Legal Consultant
- Kiril Georgievski, Ministry of Agriculture, Forestry and Water Economy, North Macedonia

A complete recording of the webinar can be found here: <https://www.youtube.com/watch?v=ALnzjgA3Pc4>



Key Takeaways

- Land consolidation serves to address land fragmentation and to facilitate enlargement of agricultural holdings and farms as well as the often, though not always, challenges related with that, such as increase of production costs and the difficulty to adopt innovations. It is generally applied to small and medium farms to become economically viable family farms. As a policy instrument, land consolidation contributes to the application of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) and to achieving different Sustainable Development Goals. Land consolidation depends on accurate information about who has which rights over which parcel. Information is often not correct in the land registries and we have to find ways of correcting this in an integrated approach.
- The distinction between the majority based approach and the voluntary land consolidation approach is crucial when preparing legislation on land consolidation. FAO recommends voluntary land consolidation whenever possible, and majority-based in situations when the voluntary approach is not feasible and there is a need to improve the agricultural infrastructure.
- Social legitimacy is just as important as legal legitimacy. It is important to respect rights even if law does not protect them. In the Legal Guide on Land Consolidation, we focused on rights that are registerable and felt it would be inappropriate to recommend broader legal reforms to recognize legitimate rights as these are not regulated by land consolidation legislation.

Webinar Summary

1) WHAT IS THE SITUATION IN NORTH MACEDONIA RELATED TO FARM STRUCTURES AND LAND ABANDONMENT? WHAT HAS BEEN THE EXPERIENCE IN DRAFTING THE LEGISLATION ON LAND CONSOLIDATION?

- More than 50% of all agricultural holdings in North Macedonia are utilizing less than 3 ha of agricultural land, and more than 70%, less than 5 ha. As much as one-third of the total arable land is abandoned and the reasons for such situation include excessive land fragmentation and small holding sizes, low profitability in agricultural production and outmigration. The Law on land consolidation in North Macedonia was adopted in 2013 without international technical assistance. Its preparation was based rather on theoretical knowledge of the issue than on practical experience. The process of testing the legislation started in 2014 through implementation of two land consolidation pilot projects funded by FAO. The piloting of land consolidation showed numerous constraints, with the provisions of the law not being fully operational, that resulted in blocked implementation.
- The process is heavily dependent on the will of the participants – mainly the landowners. They vote or accept the proposed re-allotment proposals. This means that the inclusion and participation of the landowners in the LC process needs to be secured in the law. The bodies, the decision making process, the invitation and information – everything needs to be incorporated. This makes it more complicated to regulate than a process that is fully imposed by the state such as expropriation.

2) HOW DOES LAND CONSOLIDATION AFFECT PROPERTY RIGHTS? HOW IS IT IMPORTANT FOR SUSTAINABLE DEVELOPMENT?

- There are 3 basic forms of land consolidation – voluntary, majority-based and statutory. Voluntary requires the agreement of each and every participant. Majority-based entails consultations with every land owner, but the final solution requires only the approval of

a qualified majority. Statutory also means consultations with everyone, but in the end the relevant administrative authority decides. FAO does not recommend statutory land consolidation.

- Any system of land consolidation must be accompanied with safeguards. They should ensure that the process will not be abused and property rights of any of the landowners will not be violated, no damage to environment be inflicted by the project, etc. This relates to a key principle in the VGGT, the “at least as well off” principle, by which landowner should be at least as well off after the project as before. According to the new FAO definition of land consolidation, normal market transactions cannot be considered land consolidations, even when they involve land owners swapping parcels. This requires continuous updating of approaches and (sometimes) legal procedures. Land consolidation has evolved from being solely an agricultural restructuring tool to a multi-purpose land management tool.

3) WHAT ARE THE LEGISLATIVE AND PRACTICAL STEPS THAT FAO’S LEGAL GUIDE PROPOSES TO ADDRESS HUMAN RIGHTS, GENDER EQUALITY AND WOMEN’S EMPOWERMENT?

- In Eastern Europe and Central Asia, generally legal frameworks forbid discrimination and many have other useful provisions in their laws. However, in some countries, social beliefs and attitudes may not be in line with the legal protections leading to marginalization of women in practice. The Legal Guide proposes to encourage joint registration of both spouses after land consolidation, insert gender equality as one of the principles to follow in land consolidation and to establish quotas for women in Stakeholder Committees. It also proposes to make special efforts to speak to both co-owners, and to interview family members about the land consolidation.

4) HOW TO TRANSLATE THE ADVICE FROM THE GUIDE INTO LEGAL PRACTICE?

- Before starting discussions with the national experts on what should be the regulatory framework for land consolidation, it is fundamental to perform, in collaboration with them, a sound analysis of the existing situation. There are many ways to do this. In one country, for example, we prepared a “discussion paper”, which was based on the good international practice and knowledge about the specificity of the country situation. It covered key policy issues such as: Land consolidation principles, approaches, the organizational and institutional framework, decision making bodies, funding, monitoring & evaluation etc. Once policy issues were agreed upon, detailed legal work started. Information from the performed analysis, policy level discussions and pilot projects serve as an excellent basis for this work.

5) WHAT ARE THE KEY STEPS TO IMPLEMENT LAND CONSOLIDATION?

- Learn from field experience; Clarify your target groups and areas and try to ensure continuous support by preparing and adopting a LC strategy; Make a simple law (framework law with the details in secondary legislation); Test this law in pilots and build further on it; Combine capacity development with setting up your operational programme; Link to your international peers! Be flexible, work participatory, and be determined!

Notable Quotes from the Panelists



“WE SHOULD NOT ONLY SEE LAND CONSOLIDATION AS A TECHNICAL INSTRUMENT AND WE SHOULD FOCUS ON THE POLICY SIDE BEFORE BEFORE WE BEGIN TO DEVELOP LAND CONSOLIDATION LEGISLATION AND DETAILED PROCEDURES- WE SHOULD BE CLEAR ON WHAT WE WANT TO ACHIEVE WITH LAND CONSOLIDATION.”

- MORTEN HARTVIGSEN, FAO REGIONAL OFFICE FOR EUROPE AND CENTRAL ASIA



“A SUGGESTION FOR ANYONE WHO WANTS TO ENGAGE IN LAND CONSOLIDATION: DON’T TRY TO SOLVE EVERYTHING BY YOURSELF. USE THE RICH POOL OF KNOWLEDGE AND LINK TO YOUR INTERNATIONAL PEERS, SUCH AS COLLEAGUES IN LANDNET AND FIG!”

- FRANK VAN HOLST, NETHERLANDS ENTERPRISE AGENCY



“SETTING UP THE LEGISLATION TO IMPLEMENT THIS IMPORTANT STRUCTURAL LAND REFORM IN NORTH MACEDONIA IS A HARD YET REWARDING JOB AS APPROXIMATELY 5,000 PARTICIPANTS/ FARMERS ARE EXPECTED TO BENEFIT FROM THE PROCESS IN THE NEXT FEW YEARS .”

- KRISTINA MITIC ARSOVA, FAO NORTH MACEDONIA



“THE PROCESS OF PREPARATION AND TESTING LAND CONSOLIDATION HAS BEEN LONG, BUT SUCCESSFUL IN OUR CASE. FROM PREPARATION OF THE STRATEGY ON LAND CONSOLIDATION TO INTRODUCTION OF NEW LEGISLATION AND ITS IMPROVEMENT AND HARMONIZATION WITH OTHER RELEVANT LAWS. IT REQUIRED A LOT OF DEDICATION AND HARD WORK AND NOT LEAST CONTINUED POLITICAL SUPPORT.”

- KIRIL GEORGIEVSKI, MINISTRY OF AGRICULTURE, FORESTRY AND WATER ECONOMY, NORTH MACEDONIA



“LAND CONSOLIDATION NEEDS LEGAL FRAMEWORKS. THIS WE HAVE ENCOUNTERED IN ALL FAO PROJECT COUNTRIES AND WE THINK A LEGAL GUIDE WILL BE AN EFFICIENT TOOL, AND WILL HELP AVOID RE-INVENTING THE WHEEL IN EACH COUNTRY.”

- MARGRET VIDAR, FAO HEADQUARTERS



LAND PORTAL FOUNDATION

Vindicatstraat 7a, 9741 CK Groningen, the Netherlands
www.landportal.org | hello@landportal.org