



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria - Vlada - Government

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Ministarstvo Poljoprivrede, Sumarstva i Ruralnog Razvoja
Ministry of Agriculture, Forestry and Rural Development

Land Consolidation Strategy

2010 – 2020

Prishtina, 2010

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Abbreviations

| | |
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| IA | Administrative Instruction |
| ARDP | Agriculture and Rural Development Plan (ARDP) |
| ALUP | Agricultural Land Utilization Project (ALUP) |
| EFSE | European Fund for South-Eastern Europe (EFSE) |
| FAO | World Trade Organisation |
| IPRR | Immovable Property Rights Register |
| KCA | Kosovo Cadastral Agency |
| KPA | Kosovo Property Agency |
| LC | Land Consolidation |
| LRO | Land Regulation Office |
| MAFRD | Ministry of Agriculture, Forestry and rural Development |
| MCO | Municipal Cadastral Office |
| UNOPS | United Nations Office for Project Services |

Introduction

Land Consolidation Strategy presents a very important guidance and a basic document of policies and action plans of the Ministry of Agriculture, Forestry and Rural Development, for sustainable development of agricultural sector and proper land management. Land Consolidation Strategy aims at regulating land for size increasing, more rational use and increased farm competition, legal property regulation, land use planning, environmental protection, alternative on-farm activities, farm income increase and life improvement of the population living in rural areas. The development of this strategy has begun in 2007, by MAFRD's experts, supported by international land consolidation experts from ALUP Project – Agricultural Land Utilisation, an EAR funded project. Upon decision of MAFRD Permanent Secretary, Ref. Sp-454/09, dated. 01.09.09, the MAFRD Working Group was established to review and complete the Draft Land Consolidation Strategy.

I. Executive Summary

1. Land policy and the situation in the agricultural sector

Kosovo is in the process of restructuring the agricultural sector aiming to achieve sustainable farm development. Land Consolidation as a relevant component of land reform can be an important tool for increasing farm competitiveness and improving living conditions of the population in rural areas.

The sustainable development of agricultural sector depends heavily on the proper development and implementation of land policies. These policies are the key to controlling land degradation and improving agricultural land use based on its productive capacity.

The general policy of transforming the agricultural sector of the Republic of Kosovo is included in the Agriculture and Rural Development Plan 2007-13¹ and its 2009-2013 update. Land Consolidation will be an important instrument in the implementation of land related objectives:

- Restructuring physical potential in the agricultural sector, often expressed as the need "to increase farm size".
- Improving forest management, as they are highly fragmented
- Developing local community including regeneration of villages, which to various extents may include land reorganization.

a. Need

Kosovo urgently needs restructuring agricultural sector. Around 80% of agricultural holdings are smaller than 4 hectares and farms continue to be divided by inheritance. The general policy for the transformation of Kosovo's agricultural sector is presented in the Agriculture and Rural Development Plan 2007-13. The first Axis of **Measure 2** which provides for restructuring farm physical potential, where land consolidation is introduced as a very important action in increasing farm size, having an impact in increasing market competition and land market development. Land Consolidation will be an important instrument for implementation of the respective objectives.

b. Context

The situation of land property in Kosovo is very complex. During the last 20 years institutionalized practices of maintaining ownership records have been disintegrated. Around 80% of the registered names of the owners and the respective parts of the cadastral map are obsolete, with unregistered transactions. Other aspects of insecurity include restitution claims, unresolved disputes, false documentation, ownership of persons in absence and ethnic tensions.

c. Concept

Land Consolidation is a multipurpose strategy that can face all sorts of emerging concerns, when addressing transformation of agricultural land in localities. It can be broadly defined as *the change of form, ownership and use of land - in any combination*.

¹ See "ARDP-2007-2013" at www.mbpzhr-ks.org

d. Principles

Voluntary land consolidation is built on the principles that jointly establish the process based on participation and market. Land Regulation is an agreement based on the logic of exchange, and concluded as a voluntary sale and purchase agreement. The principle of such land consolidation is built on clear incentive, i.e. technical assistance and transaction costs are provided free of charge and land exchange will be fully registered in the name of the new owner. Land Regulation may involve a range of tools to handle the combination of issues and uncertainties emerging in the locality. Land consolidation can be applied through reasonable steps, by identifying suitable project areas and gradually integrating them in projects accounting for larger financial investments. Management model of land regulation is established in cooperation between public and private sectors. MAFRD is fully responsible for land regulation, however it should not necessarily perform technical activities. These activities are transferred to the private sector with licensed surveyors.

e. Legal Framework

Law on Agricultural Land 02/L-26, dated 24/06/2006 defines the legal framework on public impact over the management of agricultural land. The law defines the objectives and general principles of land regulation in its Chapter IV. Land Regulation has a wide scope of ameliorative measures that will also apply to forest areas. The Administrative Instruction 35/2006 on land regulation gives detailed instructions on principles, procedures and voluntary land regulation activities. Drafting of the Law on Land Regulation is ongoing. However, all provisions of the applicable laws regulating this field shall apply to the implementation of these projects.

f. General objective

The purpose is to establish assumptions and anticipations, because the effective measures on implementation of land consolidation projects ensure rational agricultural land use, settlement of ownership issues and ensuring land titles, increasing of farm size and competitiveness in the market, development of infrastructure for the resident population in those areas, environmental protection, cultural heritage and assistance in developing alternative agricultural activities.

2. Main activities

a. Baseline survey serves to establish an overview of the ownership situation, land use and preferences. It provides the basis to determine the exact boundaries of the area and specify the contents of land regulation.

b. Clarification of ownership is needed to establish the real owners, as real legal owners before they can enter into an agreement related to land regulation. Clarification of ownership can start as one of the first activities and continue in parallel with baseline survey.

c. Negotiations and planning are stages when discussing with owners on specific opportunities, and ending in concluding agreements with owners who decide to exchange lands.

d. Registration formalizes agreements, makes cadastral recording and the new ownership situation is registered in the property register. The deadline for voluntary land regulation should be around 2 years. This gives owners real hope, that they can use their new land in the next production season.

3. Types of land consolidation

The nature of any land regulation is specific, but practice has shown these types:

Voluntary land consolidation is initiated by a group of farmers, who understand the need for land regulation, take initiative and submit a request.

Unfinished land consolidation where land was consolidated in the field in 1980s, but the property ownership has never been registered based on land consolidation.

Land related projects within the ARDP may include land reorganization in various scales.

Public interventions where initiatives derive from public agencies, such as a new highway or a new irrigation dam, which would require land consolidation to preserve the potential of agricultural land which form was changed, and to provide a part of compensation to the damaged owners.

Dispute settlement could be an element in some land regulations. Some disputes may derive from previous land regulation of 1980's. There are likely to have restitution claims.

Results: *Initial results* of land consolidation are: parcel defragmentation, restructuring of more competitive agricultural households and ownership clarification. The possibility of land consolidation can be understood entirely only when these results are achieved in combination. *Secondary effects* include employment and capacity building, reviving of property registers and promotion of Law on Land.

Organization: Land consolidation applies the principle of management, for which MAFRD is fully responsible to conduct land regulation, but not necessarily to execute technical works. There is a new unit established within MAFRD, which we refer to as "Land Regulation Office" ("LRO"). The management framework for land regulation has five key institutional actors: LRO, farmers and projects, taking initiatives and request land regulation, surveyors performing technical activities, Land Regulation Commissions (LRC) ensuring lawfulness of transactions and their strengthening in property registers in MCO and IPRR, where the ownership information are extracted from, and where the information on the identification of new resulting ownership status is entered.

Techniques: Land consolidation is a multipurpose instrument of land reform, which may have ten supporting tools:

1. Clarification of ownership
2. Land sale/buying
3. Land lease
4. Land purchase loan
5. Privatization
6. Restitution claims, claim settlement
7. Advice on property
8. Planning of local areas
9. Expropriation
10. Small adjustments to land

4. Needs for capacity building

In order to accomplish the process of voluntary land consolidation, there is a need for capacity building for all participants involved in thios process:

- Land Regulation Office at MAFRD
- Land Consolidation Municipal Office
- Municipal Cadastral Office
- Contracted Implementing Company
- Contracted Supervising Company

- Ministry Monitoring Commission

5. Implementation

Land consolidation in Kosovo is foreseen to be implemented through four "blocks",

- Infrastructure and Consolidation
- Financing and Consolidation
- Land purchase loan
- Law on agricultural land

6. Facing uncertainties and obstacles

The following measures are foreseen to present land consolidation under its uncertainties and obstacles:

- Phasing projects consecutively based on the managing size;
- Decentralization of detailed technical issues
- Design of comments procedures to help adjustment
- Implementation of techniques on proceeding the case already proved
- External assistance in capacity building
- Use of cross-border cooperation on capacity building and regeneration
- Establishment of a strong financial control component to ensure efficiency and confidence.

7. Challenges in the implementation of the Land Consolidation process

Apart from MAFRD, there are other participants involved in the implementation of this process, such as; Land Consolidation Municipal Commissions, the contracted Implementing and Supervising Companies, Kosovo Cadastral Agency. Non-efficiency of any of these participants may represent a challenge in the implementation of the land consolidation process.

II. The purpose and tasks of Land Consolidation Strategy

Taking into consideration the situation of land consolidation in Kosovo and the SWOT analysis, it is the vision of this strategy to increase the competitiveness of agricultural and forestry sector, based on securing the ownership of sustainable land use for farmers, environmental protection, land use planning, development of rural infrastructure and life improvement of inhabitants in rural areas.

The Strategy on agricultural land consolidation is expected to be implemented for the period 2010-2020, with a possibility of revision and amendment.

1. General objective

The purpose is to establish assumptions and anticipations, because the effective measures on implementation of land consolidation projects ensure rational agricultural land use, settlement of ownership issues and ensuring land titles, increasing of farm size and competitiveness in the market, development of infrastructure for the resident population in those areas, environmental protection, cultural heritage and assistance in developing alternative agricultural activities.

2. Specific Objectives of Land Consolidation Strategy are:

- To ensure land consolidation interaction, within the concept of rural development.
- To facilitate the process of land consolidation
- To ensure inter-relations of land consolidation, within rural and regional development in the future for successful developments.
- To improve the preparation of land consolidation projects and funding for implementation of land consolidation projects

3. Tasks for the implementation of land consolidation projects

- To facilitate the establishment of institutional structures.
- To improve land consolidation procedures.
- To ensure rational use of state owned lands in cases where land consolidation projects are developed, if possible.
- To develop system for public notification on land consolidation.
- To improve qualifications of land consolidation specialists, both at central or local level.

4. Measures on Strategy implementation

a. Provision of Land Consolidation relations with Rural Development

In order to ensure that land consolidation will solve problems in rural areas in the sustainable way, it is advisable that during implementation of land consolidation projects the following measures are considered:

- Rational sustainable use of natural resources.
- To create conditions for the use of land for public needs.
- To ensure the planning and implementation of measures for a sustainable environment.
- To plan development of local infrastructure.

- To create conditions for preservation of biodiversity, to strengthen conservation of cultural heritage and typical landscapes for the area.
- To develop alternative agricultural activities.
- To coordinate land consolidation projects with the selection of comprehensive plans or spatial planning documents for that territory (Municipal Development Plans).
- The implementation of land consolidation projects can also include projects such as: (roads, water supply, sewage, electricity lines, spaces for public needs and in some cases protective areas).

b. Evaluation Criteria on the Implementation of the Land Consolidation Strategy

- The evaluation criteria are the structures for monitoring and implementation of this strategy, and are directly related to specific goals and objectives set out in this strategy, as well as the regular evaluation of the progress achieved.
- Total area of socially owned land privatized during the land consolidation project.
- Percentage of land consolidation projects, involved in complex settlements in relation to the total number of land consolidation projects.
- Report of the selection of designed and implemented land consolidation projects.
- Recording and development dynamics of land consolidation projects.
- The structure of funding sources, used for the preparation of consolidation projects and selection of implementation method.
- Number of publications in public and private media on the subject of land consolidation.
- Increase of the average percentage of farm size after consolidation projects.

c. The responsibility for Implementation of Land Consolidation Strategy

The Ministry of Agriculture, Forestry and Rural Development should coordinate measures for implementation of this strategy and will be responsible for their implementation. Other governmental institutions or local authorities should also participate in the implementation of these measures.

Land consolidation strategy should be implemented by national budget funds, local governmental funds, public-private funds and other donations.

III. Socio-economic factors

1. Human resources

Overall residential population in Kosovo is estimated to be around 2 million inhabitants.

The population of Kosovo is young, around 33% of the total population is younger than 15 years and over 50% are under 25 years old, around 6 % of the population is older than 65 years. Active population (15-64 years) is 61% of the total population.

It has been estimated that around 60% of the population live in rural areas. Agriculture is the primary discipline, however there are several other alternative traditional activities. Agriculture has increased yearly, reaching over 12% of GDP in Kosovo.

Based on the above data, with the implementation of this Land Consolidation Strategy 2010-2020 we will reach increasing of farm capacities, impacting agricultural land production, increasing of agricultural productivity per area unit, agricultural income increase per holdings, increase of market competition, strengthening of holdings and life improvement of the population living in rural areas.

2. Agricultural Resources

- ❖ Kosovo has a total surface area of: 10,887km²
 - Agriculture land: 577,000 ha
 - Forest land: 464,800 ha
 - Other: 46,900 ha
- ❖ Privately owned property 88% of the land
- ❖ State owned property 12% of the land (over 25,000 ha. privatised)
- ❖ 460,000 Owners; 2.3 million plots; 1,300 Cadastral Zones
- ❖ Approximately 180,000 agriculture households
 - 80% of farms < 4 ha
 - 0.6% of farms > 10 ha

According to the data available, the average farm per household in our country, is around 2.2 - 2.4 ha of arable land, usually fragmented in 6-8 plots.

If compared to average size of farms per household in EU member states, which is 19.45 ha, this means that fragmentation in our country is highly significant.

About 80% of farms are of a size between 0.5 - 2.0 ha. Approximately 35% of forest areas are privately owned, while the remainder is state owned.

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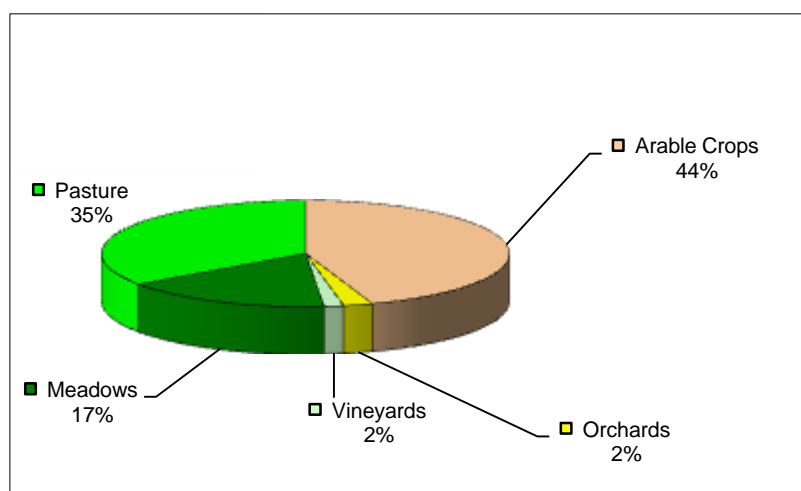


Chart 1 Land utilisation based on agricultural crops

Table 2 Farm distribution by size

| Farm size / ha | Small farms | | | Large Farms | | | Total | | |
|----------------|-----------------|----------------|------------------|-----------------|--------------|------------------|-----------------|----------------|--------------------|
| | Number of farms | Area (ha) | % of farm number | Number of farms | Area (ha) | % of farm number | Number of farms | Area (ha) | % e of farm number |
| 0.1 - 0.5 | 33.657 | 10474 | 19.6 | 5 | 2 | 2.0 | 33.662 | 10.476 | 19.6 |
| 0.51 - 1 | 46.145 | 34.895 | 26.9 | 9 | 6 | 3.5 | 46.154 | 34.901 | 26.9 |
| 1.01 - 2 | 39.129 | 49.039 | 22.8 | 4 | 5 | 1.6 | 39.133 | 49.044 | 22.8 |
| 2.01 - 3 | 14.512 | 25.935 | 8.5 | 12 | 24 | 4.7 | 14.524 | 25.958 | 8.5 |
| 3.01 - 4 | 6.756 | 23.120 | 3.9 | 32 | 110 | 12.5 | 6.788 | 23.231 | 4.0 |
| 4.01 - 5 | 3.875 | 17.478 | 2.3 | 21 | 96 | 8.2 | 3.896 | 17.573 | 2.3 |
| 5.01 - 6 | 2.412 | 13.420 | 1.4 | 12 | 65 | 4.7 | 2.424 | 13.305 | 1.4 |
| 6.01 - 8 | 1.712 | 11.764 | 1.0 | 31 | 217 | 12.1 | 1.743 | 11.981 | 1.0 |
| 8.01 - 10 | 702 | 6.182 | 0.4 | 24 | 219 | 9.4 | 726 | 6.401 | 0.4 |
| < 10 | 973 | 14.728 | 0.6 | 75 | 4.105 | 29.3 | 1.048 | 18.833 | 0.6 |
| Total | 171.483 | 260.337 | 100.0 | 256 | 4.928 | 100.0 | 171.739 | 265.265 | 100.0 |

Source: SOK, AHHS (2004)

3. Forest Resources

Information on forests, mainly timber, is collected before and during the 1990s. Planning in the period before the war was made only for public forestlands. One of the actions identified as most urgent, was the validation and re-installation of the capacity to develop an assessment of forest resources throughout Kosovo, called the Forest Inventory. This type of information is important for different strategic decisions, for the establishment of sector policies and the monitoring of forest trends. Considering these urgent requirements, during 2003 - 2004 an inventory of forests was developed across the country. Results and main conclusions, based on implementing policies and strategies are elaborated and summarized as follows:

- 379 200 ha are classified as forest land through aerial image interpretation and field surveys. The remaining 85 600 ha are classified as forest land through the interpretation of photos, but are not surveyed because of mines and other logistical barriers. Out of the total area of forest land that has or has not been surveyed, 278 880 ha are classified as public forest land and 185 920 ha as private forest land. The total surface area (464 800 ha) is slightly larger (6-8%) than the previous measurements;
- The total volume of standing public forests is estimated to be about 33.5 million m³. Of this volume, 25.9 million m³ are trees with a diameter > 7 cm, at breast height. In private forests, total standing volume is estimated around 19.5 million m³ of which 14.5 million m³ are trees with a diameter > 7 cm;
- There is a significant area of bare forest land (20 000 - 30 000 ha). Some of it is eroded and has a thin soil layer. A considerable part this land is suitable for afforestation;
- 40% of public forest lands and 29% of private forest lands have been subject to uncontrolled or illegal use activities. Compared to all the standards applied, these figures are quite high. The situation is very critical especially in coniferous forests, where the existence of extensive forest areas is put at risk if immediate steps are not taken. The inventory results also confirm that low-rise forests, especially public ones are exposed to excessive exploitation. In addition, results show that many new forests and those of average age have an urgent need for interventions, ranging from cleaning /pre-commercial thinning to commercial thinning.

Taking into consideration that forest lands and forests are heavily fragmented, legal procedures and provisions shall apply to agricultural land consolidation and also to the implementation of forest and forest land consolidation.

4. Effect of the privatization of agricultural land

Process of management and privatization of agricultural land has begun with the establishment of the Kosovo Trust Agency, KTA, established by UNMIK Regulation no. 2002/12 in June 2002, amended and supplemented by UNMIK Regulation No. 2005/18.

This agency administers publicly and socially owned enterprises and their assets. The Agency has identified over 500 Socially Owned Enterprises (SOEs) of which 150 are from Agriculture and Forestry Sector. The total area of socially owned land administered by KTA was around 61,644 ha. UNMIK Regulation no. 2003/13, May 2003, provided the opportunity to sell the right of use to immovable properties for 99 years. Out of the total area, around 25,310.47 hectares have been sold until the 32nd wave of privatization. The total area of agricultural land which still remains to be privatized is

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around 16,333.53 hectares; whereas it still is to be discussed over 20.000 ha of “Sharr Prodhimi” pastures how to be addressed between the responsible institutions.

The Privatization Agency of Kosovo was established with the issuance of Law on Privatization Agency of Kosovo, No. 03/L-067, dated 15:05:09, as an independent public body and the successor of KTA.

The privatization of agricultural land is a relevant agricultural land reform allowing the development of large areas for agricultural production impacting farm size increase, market competition increase and more sustainable agricultural activities.

All privatised agricultural lands are subject to the provisions of Law on Agricultural Land No. 02/L-26 and other applicable laws and provisions regulating this area.

IV. Analysis land consolidation situation

1. Land consolidation in the context of Rural Development Policy

European Union Rural Development policy considers land consolidation as a very important instrument for boosting competitiveness in agriculture and improving living conditions for the population in rural areas.

Farmers can become more competitive, when they reduce land fragmentation and increase their farm size, and rural community can benefit when land consolidation projects also include components to improve local infrastructure and environmental protection. Land consolidation apart from helping to increase farm size and competitiveness, also helps to increase land tenure security, environmental protection, landscape and cultural heritage, sustainable use of natural resources and sustainable improvement of life quality.

EC Regulation No. 1698 /2005 of 20 September 2005 on support to rural development by the European Agricultural Fund for Rural Development (EAFRD), with recent changes by the EC Regulation No 2012/2006 of 19 December 2006 amending and correcting Regulation (EC) No 1782/2003, has established key principles to support Rural Development. Each EU Member State or country intending to become part of the European Union states based on strategic guidelines, should develop a national strategy and plan for rural development for the period 2007-2013 and rural development program for the implementation of this plan.

Local Action Groups (LAG) and the Payment Unit play also an important role in land consolidation projects in rural areas.

Currently, all LAGs have prepared local development strategies for the respective municipalities based on the “bottom-up” approach and horizontal partnerships. LAGs’ strategies pay special attention to the consolidation of agricultural land as an integral part of rural development.

2. Evolution of land consolidation

The programme for implementation of land consolidation in the Republic of Kosovo started in 1979. This program was one of the important activities for land reform and restructuring of agriculture. The Land Consolidation Programme was directly related to the irrigation system which was being established. This combination of irrigation system with land consolidation required high professional qualifications and also financial resources. The project was supported by the World Bank. Land consolidation began in 1983 and continued until 1989 in 98 Cadastral Zones in the territory of 8 Kosovo municipalities.

Regulation of agricultural land through consolidation was applied mainly in the territories of municipalities which were under irrigation network systems "Ibër Lepenc" and "Radoniqi", except in the territory of the Municipality of Viti.

In the irrigation system "Ibër Lepenc" land regulation works were carried out in:

- Mitrovica in 4 cadastral zones
- Vushtrri in 23 cadastral zones
- Prishtina (Kastriot/Obiliq, Fushë-Kosova/Kosovo Polje) in 7 cadastral zones
- Drenas/Glogovac in 21 cadastral zones

In the "Radoniqi" irrigation system, land regulation works were carried out in:

- Prizren in 6 cadastral zones
- Rahovec/Orahovac in 11 cadastral zones
- Gjakova/Djakovica in 16 cadastral zones

In areas where no irrigation system was established, land regulation works were carried out in:

- Municipality of Viti in 10 cadastral zones

In some municipalities activities on land regulation with consolidation were limited only to data collection:

- Ferizaj
- Lipjan
- Istog and
- Deçan

In late 1986 the land regulation works through consolidation in Kosovo were foreseen to be carried out in the area of 38.631 ha, in 135 cadastral zones. Out of this area of agricultural land consolidation was carried out in 26.000 ha, in 98 cadastral zones, and it was not completed.

3. Completion of consolidation process

Despite the satisfactory progress of land consolidation projects implemented in the 80's, the real situation on the ground has changed today, because more than 25 years have passed since then.

Changes between the situation on the ground and the one foreseen by consolidation were diverse. The consequences in agriculture due to the abovementioned changes are huge and long-term. Surveys made on the situation of the consolidated property in 8 municipalities revealed that:

- No property under consolidation was registered in cadastral documentation.
- The property is farmed based on the consolidation documentation, while the ownership remains as it was before consolidation.
- There are cases where the property is being used as per the old situation, i.e consolidation has failed.
- The legal ownership remains pending and there are often disputes on the ownership of these properties.
- Unplanned construction on lands included in land consolidation area is obvious.

This situation of unfinished land consolidation has urged the Ministry of Agriculture to take steps on improving conditions and clarification of farmers property relations for their land under unfinished consolidation:

- Settlement of property relation issues of the participants in land consolidation:
- Increase of farm size, so the farmer can become competitive in the market
- Facilitation of land reform through the development of land market, (sales-purchase, establishment of standard lease agreements), stopping of further parcel fragmentation.
- Improvement on the control of unplanned construction in areas included in land consolidation, support to Municipal Development Plans and Environmental Protection.
- Assistance to farmers on the stated objectives, providing security and loan access.

- Support farmers' income generation, unit costs reduction, increase of agricultural productivity and competitiveness of agricultural products in the market.

4. Public Information

The Ministry of Agriculture, Forestry and Rural Development has achieved certain progress in informing farmers on the possibility and benefits that they would have, if land consolidation project is implemented. This information was disseminated through Advisory Services Project, "Development of Rural Areas through the advancement of Advisory Services" funded by the MAFRD. Information to farmers was disseminated by rural consultants on central, local and private level, thanks to publications published in daily newspapers, leaflets, brochures etc., with the purpose of presenting specific aspects of land consolidation.

The objectives of building public awareness on land consolidation projects are as follows: training, agricultural fairs or other public events, workshops on land consolidation, etc.. These information measures currently meet the information needs of only a targeted group of farmers interested in land consolidation projects, however there is a need for a wider public awareness.

5. Human Resources

Gjithashtu është i domosdoshëm përmirësimi dhe ngritja e kapaciteteve të personave përgjegjëse për konsolidim të tokës si në nivelin qendror, ashtu edhe në nivelin komunal. Për organizimin e projekteve të konsolidimit të tokës, përgatitjen, implementimin dhe mbikëqyrjen, kërkohet ngritja e vazhdueshme e kapaciteteve dhe përvojës.

It is also necessary to improve and build capacity of persons responsible for land consolidation both at the central and municipal level. For the purpose of organizing, preparing, implementing and supervising land consolidation projects, there is a need for sustainable capacity building and experience.

6. Organization aspects

The institutional structure for implementation of land consolidation projects is organized in two levels.

- a. Central level:** organizes, prepares, monitors and finances land consolidation projects.
- b. Local level:** initiatives may also come from local level on the preparation of projects and participation in co-financing, and the supervision is to be done by the central level.

V. Principles of Voluntary Consolidation

Voluntary land consolidation is based on principles that jointly constitute the process based on participation and market.

1. LC on agreement

This principle is reflected on the term “voluntary” land consolidation. The owner is allowed to join or remain out. Even when a project is underway, the owner is not -involved until he/she accepts the opportunity and signs the binding agreement.

The principle of voluntary participation clearly increases the incentive, namely the technical assistance and transaction costs are free of charge and the land exchanged will fully be registered in the name of the new owner. The strategy is to announce the stimulation and allow some time for farmers and municipalities to respond by showing express of interest. They will have to argue for their case in order to receive free land regulation services.

Voluntary principle is also applied in addressing disputes, such as requests for restitution and - if –there are border disputes. Efforts will be made to intermediate the settlement resolving the dispute which will be accepted by the parties,. If that fails, any disputed land parcel is excluded from land regulation and the parties will have to solve their disputes in courts on their own costs. This change in the property does not apply “against” any third party interest.

The logic of such agreement based on the approach that exclusive voluntary agreements would not cause cases of appeals and implementation problems and parties would be motivated to settle their potential disagreements, in order to not lose the opportunity having the land consolidated and free registration. Thus, the approach has a clear element of deal.

However, parties that will conclude the agreement must first be acknowledged as legitimate owners. Therefore, clarification of ownership becomes the first and main phase and in the context of Kosovo it is assumed to be a heavy burden.

2. LC based on market

Land exchange is made as a voluntary agreement of purchase and sale. This means that the level of price which both parties agree to sell and buy with is reached. The principle is that the level of price indicates the owner’s perception on prices.

The evaluation technique aims at reaching an agreement between owners in their perception of price. The so-called relative assessment serves only as a basis for land exchange in land regulation and later it will not be formalized, for example as a basis for taxation. Relative assessment requires true commitment of the owners; it requires efforts in the mediation that eliminates the need for technical indicators, such as soil tests. There should be an agreement on the price of each plot of land sold / bought.

Market principle is also reflected in the fact that the owner can buy more than he sells and vice versa. This allows structural change through which some owners increase their areas and other net sales. In addition, it greatly simplifies the technical evaluation side and determines that the change in value can be equated to cash payments - only when the parties can agree and offer.

First of all, transactions in the voluntary land consolidation are individual transactions based on the market.

3. LC is repetitive

There are various ways in which general tasks can be divided into smaller tasks of manageable size that can be implemented in sequence.

The targeted area can be divided pragmatically, for example by focusing mainly in high productivity of the agricultural land and leaving aside tackling of the most difficult settlement areas for a later stage. Land consolidation should not necessarily cover all cadastral zones, which are technical geographic units for the purpose of registration. After analyzing the baseline survey, areas can be reviewed and priorities adjusted.

The developments in an area could be of longer-term perspective, for example forecasting the establishments of irrigation systems and other infrastructure. Land consolidation can prepare the basis for such reasonable projects. This may not give the final and perfect state, although it may present improvements for many owners. The main achievement would be to have a clear platform for future land consolidation and perhaps the development of road or other infrastructure planning. In addition it can provide a strong argument for funding, if the first land regulation development is in process, reducing fragmentation and clarification of ownership.

In view of the general uncertainty about property rights, voluntary land regulation may be seen as the first phase regulating those uncertainties, which could be resolved through mediation and be formalised as voluntary agreements. Then other cases of legal process can be identified as - "filtered" - aside to follow legal proceedings.

In general, land consolidation should be considered as an instrument for adjustment. The property status should also be understood as something that could change when the circumstances require this. It is "common" to adjust the property occasionally. After the first phase, people and professionals will get used to the procedure and gain technical experience and subsequent adjustments would be easier.

4. LC in public-private partnership

The management model on land consolidation increases cooperation between public and private sectors. MAFRD is fully responsible for land consolidation, but it should not necessarily perform technical activities. These are transferred to private sector licensed surveyors. Therefore, the full responsibility of the Ministry is to manage the private sector that carries out the project technical implementation.

The task of land consolidation is bigger than the traditional task of sub-division and cadastral recording. Surveyors engaged in land consolidation will also be responsible for consultations, discussions in the planning process, formalization of agreements with the owners, and for "hearing" the appropriate authorities in regard to reviewing of other land related legislation.

Although the licensed surveying company has full responsibility - practical tasks can be delegated to licensed surveyors and agricultural advisors, who are often good at having discussions with farmers on land exchange. Such teams together can provide the interdisciplinary profile, which is needed for the complex task of land consolidation.

5. Legal framework

Law on Agricultural Land No. 02/L-26² defines the legal framework for public impact in the management of agricultural land. The law specifies the objectives and general principles of land regulation in its Chapter IV. Land regulation describes the wide extension of ameliorative measures to be implemented also in forest areas. The Administrative Instruction 35/2006 on land regulation gives detailed instructions on principles, procedures and activities in voluntary land regulation.³ For more details see also technical parts.

The nature of this legal framework is first of all procedural. This means that it defines the procedure and shares duties for key partners. The specific criteria will emerge from specific laws and regulations, which the transactions of land regulation will have to comply with. Similarly, the technical requirements will be specified in frequent technical instructions.

The essential requirement is for the land regulation commission to ensure that transactions are legitimate and that land use planned in the future will be in accordance with planning regulations.

The Land Consolidation Commission will closely cooperate with the Municipal Court. The Commission empowers the ownership documentation and will ensure that transactions meet the requirements of the court. The decision of Land Consolidation Commission is mostly a recommendation to court. With such case preparation, the Land consolidation Commissions will assist the courts. Timely land consolidation will reduce the uncertainty related to property and will prevent future disputes through clarification of ownership and establishment of a system in property transactions rules.

6. Main activities

Land consolidation will have four main activities:

- a. Baseline survey,**
- b. Clarification of ownership**
- c. Negotiations and planning; and**
- d. Registration.**

a. Baseline survey,

Baseline survey serves for getting an overview of the property situation, land use and preferences. The baseline survey receives information on the current situation directly from the owners through short interviews with all owners, based on a simple questionnaire.

Përveç kësaj, informatat e pronarëve i përgjigjen informatave në regjistra dhe të dhënat nga çdo pronar për numrin e parcelave, sipërfaqen dhe llojin e shfrytëzimit të tokës japin një pasqyrë statistikore të gjendjes ekzistuese. Janë marrë hollësi për kontaktimin e pronarëve në mungesë, përfshirë edhe të dhënën kur do të jenë ata në shtëpi dhe të kontaktohen personalisht.

The technique is to create property maps based on overlying cadastral map and orthophotos, where each owner can easily identify their parcels. Once the property maps are produced, it graphically shows who owns what and where and thus it illustrates the degree of fragmentation. This map is the central technical and communication tool during the entire process of land regulation.

² UNMIK/REG/2006/37, 23 June 2006. See www.mbpzhr-ks.org

³ See www.mbpzhr-ks.org

In addition, the owners' information matches the information in registers, and the data from each owner on the number of parcels, area and type of land use provide a statistical overview of the existing situation. The contact details for absent owners have been obtained, including information when they will be at home and to be contacted personally.

Baseline survey leads the perspective towards the future and asks each owner what special visions, plans or wishes he or she has. Such conversation is a continuation of the activity on initial information. The procedure and principles can once again be explained to the owners. Owners and designers of the LC team are notified in person.

Baseline survey gives the basis to determine the exact boundaries of the area and specify the content of land consolidation. Finally, the LC team can make an assessment of interest and land regulation extension. This is the basis for deciding whether to proceed to the next stage. Time frame: baseline survey can be completed in 2-3 months.

b. Clarification of ownership

Ownership should be updated before the owner enters into an agreement for land consolidation, otherwise his signature is not powerful. Clarification of ownership can begin as a first activity and continue in parallel with baseline survey. Owners will be informed on what documentation they should provide. Efforts should be made to ensure that absent owners are contacted, for example through their relatives and when they come home for vacation.

c. Negotiations and planning

There is a basis for revaluation and specification of land regulation objectives, adjustment of the defined project area boundaries and compliance with specific rules concretely reflecting the project area, information on real ownership as opposed to the legal one, information and suggestions from owners, etc. Then concrete options are discussed with the owners. This process is repetitive and to some extent unpredictable because new options may be presented, owners may change their mind etc. After a certain time a proper assessment of different quality land should be made. At the final phase, the binding agreements are signed with those owners who decide to exchange land. Negotiation and planning phase is completed upon the decision of the LC Commission. Owners may begin to use their land on the date specified in the decision of the commission. Usually a deadline will be given to suit the change of production season, usually in late autumn. Time frame: For detailed consultation it is important that the negotiating phase lasts for at least 6 to 10 months.

d. Registration

This phase formalizes agreements. The new form of land is recorded and ownership registered in property registers. These activities can be implemented after a certain deadline and should not be delayed in order for owners to use their fields.

Activity Overview

Baseline survey:

- Interviews, data, preferences;
- Extracts of property information;
- Clarification of ownership in development;

Baseline survey can take 2-3 months.

Negotiations and planning:

- Discussion of options,
- Assessment,
- Agreements,
- Commission's Decision,

Negotiations and planning can take 6 to 10 months

Registration

Cadastral recording and registration in IPRR

VI. Types of land consolidation

The nature of any consolidation of the land is special. It depends on the context, such as landscape, land structure, type of project initiative, background, degree of organization in the community and funding volume of the project. In practice we come across five types of land consolidation:

1. Voluntary Land Consolidation

Voluntary land consolidation strategy clearly defines stimulation and enables farmers to respond to it (Stimulation is free technical support for land transaction costs). The requirement is that a group of interested farmers understands the need for land regulation and responds to it by taking initiative submitting a request and arguing viability of their case. Of course, requests will come from large fertile areas, where land is highly fragmented and unplanned land shapes irritate farmers, not only because of very small and scattered plots, but also due to lack of road access. Thus, a farmer can access his plot, only by passing neighbouring parcels. A similar situation may occur in villages and requests can emerge only when a group of farmers recognize the common need for land consolidation.

The voluntary land regulation timeframe should be determined with around 1-year. It gives real hope to owners to use their new divided land for the next production season. Larger or more complex cases should be divided into stages. Final process of registration should not be delayed, so that owners can use their fields.

2. Unfinished land consolidation

This type of land consolidation addresses large areas of agricultural land in Kosovo, and the main issue is to formalize land ownership. Major irrigation projects, in late '80, have covered more than 25000 hectares. Infrastructure was built and lands were re-aligned, but this new state has never been registered. The consequence today is that the real owners do not have official proof of ownership. Completion of registration will enable owners to be the official owners of entirely registered land. Since these projects are almost 20 years old, it is likely that the new needs for land regulation may have emerged, so the finalization of old LR has two components: the clarification of ownership and the voluntary land consolidation, for those owners, the who are interested to exchange their parcels throughout this process.

3. Land related projects in ARDP

These are projects aiming at specific objectives under ARDP and which at different levels could be related to land. One example is the objective of improved forest management. Next objective is the so-called projects for village renewal, and a series of improvements are proposed. This may or may not involve land exchange. In other situations, the rural development project will require limited re-organisation of ownership and land use, for example, in planting trees or demonstrative parcels of improved cultivation techniques. This kind of projects will be based on the expressed interest of the community, and this is likely also to examine the possibility of addressing land exchange on a voluntary basis. If the extent is limited, it might be more practical to engage private surveyors to address them as individual transactions.

4. Public interventions

These are projects where the initiative comes from public agencies. Examples include: new highways, new areas of mineral exploitation, land improvement projects, new dams for irrigation, etc. Such projects will require land regulation to preserve the potential of agricultural land, with deteriorated

shape and to partially compensate damaged owners. They cannot rely solely on voluntary participation, to the extent that these projects require full involvement of at least a portion of the project area, so it will be required to have an expropriation mandate. The mandate shall be established by the legal basis of each project.

5. Settlement of Disputes

The settlement of disputes may be an element of some land regulations. There may be disputes deriving from land regulation of 1980's; in some areas more, in some others less. The reason for this is that these land regulations were not voluntary, but mandatory to the disagreeing minority and in some cases were proved non-implementation. The appearance of disputes is an unpredictable parameter, because it requires the review of each case and the local area to find out the real nature of cases. Voluntary land regulation may require the mediation in cases. It seems that many owners have reason to resolve these cases in a logical way, because court proceedings cost time, money and energy and sometimes bring out new problems. However the LC commission may only formalize voluntary agreements. It has no mandate to adjudicate disputes and impose solutions.

VII. TECHNICAL PART

In the technical perspective, the instrument of land consolidation is presented as an instrument which consists of four components:

1. Organization
2. Knowledge
3. Technical Aspects
4. Results.

1. Organisation

Administrative Instruction No.35/2006 on land regulation instructs key actors on their roles and responsibilities in the land regulation process. The area of responsibility is broad and ranges from technical aspects of land registration through discussions and land regulation designing, to handling money transactions between owners and being accountable for government and donor funds.

Law on Agricultural Land determines MAFRD as fully responsible for land regulation. The principle of management applies that is, MAFRD is fully responsible for the implementation of land regulation, but not necessarily for the execution of technical works. A new unit, which we refer to as "Land Regulation Office" (hereinafter referred to as "LRO"), has been established within MAFRD.

Management framework of land regulation has 5 (five) key institutional actors: LRO; farmers and projects, who take the initiatives and require land regulation; surveyors who develop technical activities; LR commissions that ensure the legality of transactions and empower them, and MCO and IPRR property registers, which the initial property information is extracted from and which the results of the new property situation are entered in.

The five key institutional actors and their responsibilities are illustrated in the following chart, and their roles and interaction is explained as follows:

a. Framework: Logical and Technical

LRO is focused on management. It is its responsibility to organize the preconditions for four other actors, so each of them can perform its activities. LRO provides the legal and technical framework through IA to key actors: farmers and projects, surveyors and LR Commissions. LRO develops awareness activities; it provides information and instructions on how farmers and their advisers can take initiative. LRO finances the work of the LR commissions. LRO is responsible for competent implementation by all actors. LRO is active in negotiations for land regulation funding. (See Annex 2)

b. Initiative: Farmers and projects

A group of farmers can take initiative, and submit application to LRO for land regulation, by arguing the need for benefits from the adjustment of the land in their area. They can be supported on this by a professional adviser such as surveyors and agricultural advisor from municipal agriculture office. They will need maps from the Municipal Cadastral Office. The initiative could come from projects within the ARDP, which include reorganization of land and property. Even such projects shall submit a request for land consolidation to LRO.

c. Approval: Access to land consolidation commissions

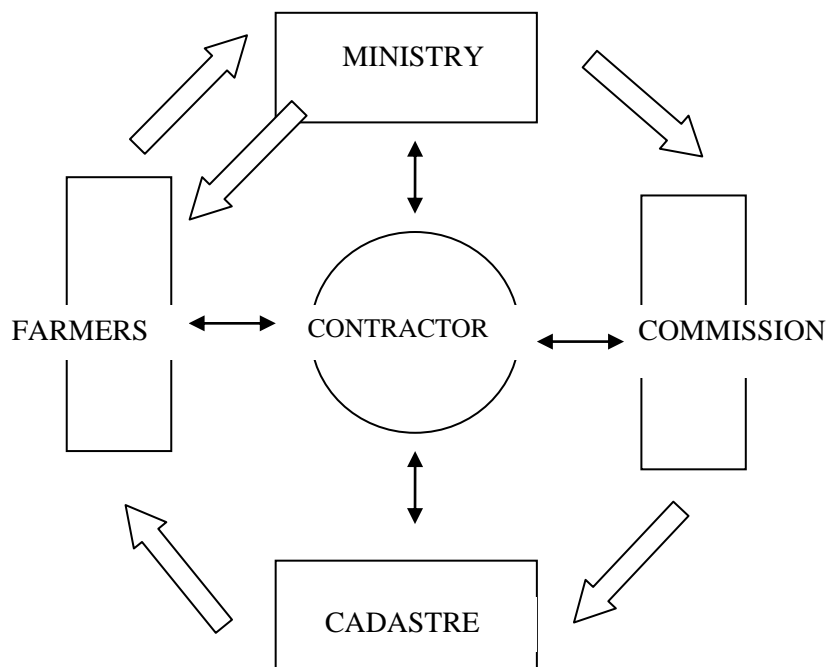
LRO assesses if the proposal meets the requirements and instructions for good land regulation, and promotes better use of land and agricultural production. The approval by land consolidation commission provides the project with LC procedures. Funding is another issue. LRO may have funds for the implementation of the project, or the project itself will have its own funding from the sub-sector program, within the ARDP 2007-2013, such as the project for rehabilitation of irrigation, or forest management project or farmers who submit the request may self-finance it.

d. Implementation: Surveyors and the Commission

LRO contracts the implementation work with a surveyor, specifying the instructions and activities to be conducted for the results to be achieved. The surveyor conducts activities with farmers, receives property information from cadastre and interacts with LRO and LR Commission, because this is needed to ensure fair and efficient addressing of specific issues. The final result is a general series of liaison agreements with farmers. The Surveyor submits all required documents to make a decision on the clarification of ownership and its change to the Land Regulation Commission.

e. Registration: MCO and IPRR

The communication with IPRR is conducted through the Municipal Cadastral Office (MCO), which is the entry point to both textual and mapping property information. Therefore, the MCO is important in the first phase of the initiative, by providing farmers and their advisors with information on the existing property situation, and by providing in particular relevant data and material on the property, which are essential for having an overview of the available land structure.



Model of land regulation: Illustration of key institutional actors. The activity that activates an activity is the arrow that starts from the Ministry (counter clockwise). This is the basic precondition to have land regulation, meaning that the Ministry has the capacity and resources to support implementation of Land Regulation. After that, case flow goes clockwise.

2. Technical Aspects

The impact of land consolidation usually is presented as a transition from the situation "before" to the situation "after". The multi-purpose, LR reforming instrument, may include the following technical elements or "means" for transformation related to land. They can be included and combined as appropriate, in the particular context of the project. Some of these tools already mentioned are described in detail in the AI.

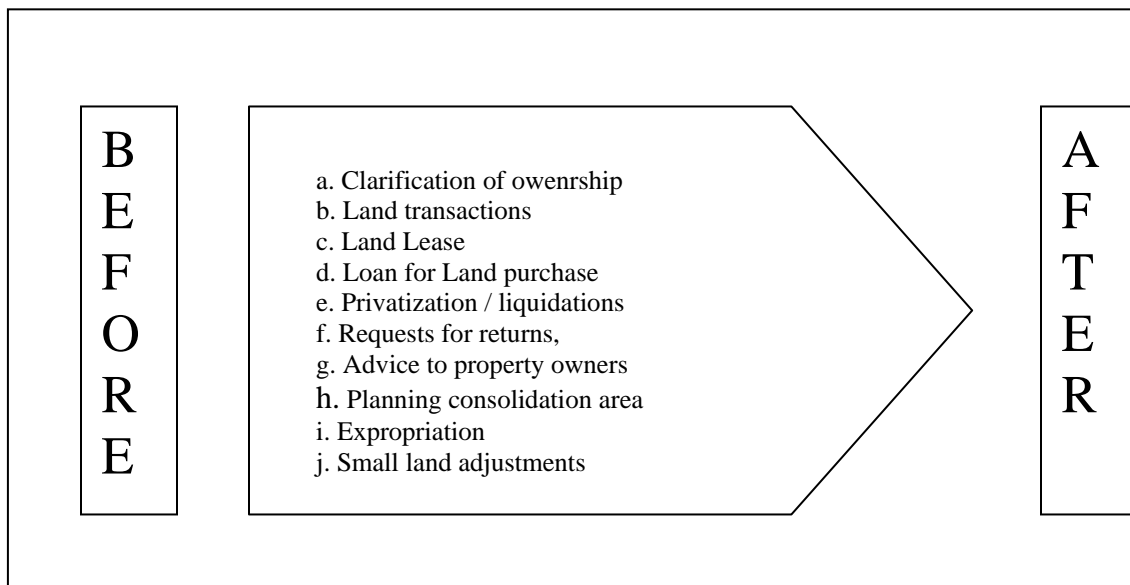


Illustration: voluntary land regulation as a strategy with more goals, with ten means

a. Clarification of the ownership

The first activity is to verify that real owners are legitimate owners, and only then they can conclude formal agreements on land consolidation.

The procedure for ownership clarification, will meet the requirements of relevant laws. LRO in the Ministry, in cooperation with the courts, should prepare a manual for owners and professionals on the provision of documentation to clarify ownership. The provision of documentation will be initiated immediately after the start of the project and will continue in parallel with the first activity of the baseline survey and certainly in the negotiation and planning phase.

LC Commission will empower the documentation and present it to the court, with its recommendations. The procedure will ensure that documentation combined with public review, is sufficient for the court to make the decision on the property.

b. Land sale and purchase

When owners are verified as such, they can enter into transactions that are consistent with land consolidation guidelines, and they do not violate other legislation.

Land exchange in voluntary Land Consolidation is implemented through transaction agreements between participants. Changes in value can be equalized in cash. (Administrative Instruction No.35/2006 on land regulation, article 1.1). The relative assessment is required for the differences between parcels in: surface, land fertility, shape and location. The LR designing team can support a systematic comparison of the

types of land together with owners, and possibly even with experts. Although, in any exchange agreement, the parties must agree on the share price of the land parcel. (Administrative Instruction No.35/2006 on land regulation, Article 21).

The key is to mediate and combine liaison arrangements, for which participants can agree and pay. This is one of the activities of land regulation which is time consuming. AIs determine the structure of this process, by specifically defining (Administrative Instruction no. 35/2006 to regulate the land, Article 9) the role of the appointed representatives of land owners as contact points between the LR designing team and owners. These representatives can provide local knowledge and provide creative solutions and mediation.

The subsequent agreements should be formalised, so that they clearly state the transactions and determine certain conditions. (Administrative Instruction no. 35/2006 to regulate the land, art 16).

c. Land leasing

Land consolidation for agricultural development should not necessarily be carried out with the change of ownership. It can be reached through leasing. The leasing practice in Kosovo confirms that the actual leasing, in most cases, is done on annual basis between relatives and this is informal.

When farming becomes more commercial, investors who make long-term investments, for example, in buildings and machinery; will also need long-term security of land, which is needed for these investments. As many owners are not likely to give up their land, however they may consider leasing them on long term, which can be the way to regulate small size plots into large size areas for commercial farming.

The template of the lease agreement has been prepared, establishing an easy format to sign long-term leasing agreements. The template agreement lists important issues that need to be considered and if necessary detailed. Therefore, with land consolidation, it is possible for an owner who has a consolidated land to rent it. Land consolidation designing team can help in finding the farmer, who would be interested in renting and help in the leasing discussions.

d. Land purchase loan

Land regulation through loans is of a particular importance, as it helps farmers to increase and defragmenting areas of land in cases where farmers don't have necessary funds for this issue. (Details are presented in Annex 3).

e. Privatisation/liquidation

Land regulation provides another way of land sale. For the PAK (the Privatization Agency of Kosovo), sales through land consolidation can be an alternative to privatization. This is a form of privatization, where some parcels do not constitute a coherent unit, which is likely to be privatized through auction, but which will be sold in individual agreements to perhaps neighbouring owners. For such plots, KPA can participate as an owner of land net sales.

However, it appears that in practice, land regulation come after privatization, and this means that land will be privatized first and then the new owner can consolidate it.

There might be special cases when SOE land is located in areas which were under the previous, unfinished land consolidation. The difficulty is that, the property unit is not identifiable in the property records and therefore cannot be auctioned.

f. Requests for restitution

It is likely in the coming years to face land restitution claims during the consolidation project development. The approach based on voluntary land consolidation agreement provides a pragmatic way of handling such unsolved claims.

The procedure is that the applicant addresses KPA and submits the request. The full details for parcels in question and contact details for the owner are recorded by KPA and then they are made publicly available. Moreover, the KPA sets boundaries with a visible mark on the ground, which indicates that the request for restitution is submitted.⁴ Therefore, it is technically simple to verify if there is any claim for restitution in the project area and it is possible for the applicant to be contacted. Article 17 of AI, gives instructions on addressing third party interest, which may emerge during the public reviewing, that is, a voluntary agreement is made, in which case the claim can be resolved. If the request cannot be resolved and agreement reached, the relevant land is not included in land regulation, and claims will be resolved in special legal proceedings. Moreover, public reviewing to clarify ownership and transactions in LR can be made in accordance with the guidelines of the KPA, to discover the third party with any kind of interest. Thus, voluntary land regulation shall not apply "against" any third party interest and will not violate the principles of the process of restitution which is under development. This is possible because the voluntary land regulation should not necessarily cover a whole cadastral area, and may set aside certain parcels of land.

g. Advice to property owners

Voluntary land consolidation considers owner's preferences and faces them with concrete options of land exchange, sale, purchase or tenure.

Usually in this process, owners raise issues which they are not fully informed of and require clarification. In this way, the land regulation designer takes the role of advising owners on issues related to property. In the first place there is always the task of explaining the procedure and transactions, because every owner should understand exactly what can happen with the land and secondly, it is the responsibility of LC designers to present possible options to the owner, therefore, testing his/her preferences.

Since there are currently few rural advisory services in Kosovo, owners can use LC designers to consult on land regulation related matters. Therefore, the combined team of surveyors and agricultural advisors can be very useful.

The overall responsibility of the land regulation designing team is to ensure that the owner understands the consequences of his/her decision, whether he/she buys, sells or exchanges.

h. Planning consolidation area

Land consolidation often activates aspects of local area planning. It is likely to come across two concrete issues. *The first* is addressing legalization of buildings constructed without the official approval. Clarification and formalization of the property, means updating the owner's name, as well as the official recognition of existing land use, including houses that could have been built without official approval. This is especially important for farmers who want to expand production in their farms and who buy net land or give it on a long term lease. They do this because they have investment plans and they should ensure that these plans are not in contradiction to public planning.

Land Consolidation often activates aspects of local area planning, which may include a range of issues of local area planning. Owners, communities and municipalities can also discuss these issues during land

⁴ See www.kpaonline.org

regulation and may include a specific land exchange that leads to land regulation. This applies especially when there are reserves of land in public ownership, which can be used to compensate the division of agricultural land for non agricultural purposes. In this way, the new ownership situation would be consistent with the long-term vision on the development of local territory.

i. Expropriation

Some projects would probably need an expropriation mandate to ensure their implementation. Since the Administrative Instructions on land regulation determines only voluntary land regulation, the expropriation mandate must be "imported" from the specific legal basis provided in other laws in force on expropriations. For example, the Law on Waters has a mandate of expropriation. (Law on Waters of Kosovo, Regulation no. 2004/41, Article 15), this provision is needed in case of implementation of a new irrigation system.

Thereafter, we must decide how to implement the mandate. For example, we should determine whether the given mandate will be left with the Land Regulation Commission or a special commission should be established. Also, commissions for expropriation can "import" and apply the land consolidation technique of the voluntary land regulation for specific projects.

Advantages of mediation and voluntary agreements are important in expropriations, because they reduce the number of complaint cases and settle disputes by mutual understanding. Land regulation can provide combined compensation of money, land and new planning.

j. Small land regulations

The commission supervising the procedure and implementation of transactions in land consolidation is very efficient when the number of concurrent exchanges is large. But if land regulation is needed only in small localities for some special purpose, very few owners would be involved and the volume will be too small to justify the activation process of the commission. The alternative for such cases will be the conclusion of land exchange agreements, as individual transactions, through the court. In such case, the project does not have to submit a request to the Ministry and apply for approval. The incentive for small land consolidations could be offered as the percentage of the predetermined amount per hectare of regulated land, in order to cover transaction costs.

The incentive may be approved upon submission of the exchange plan at the completion of the process and each farmer be paid upon producing the documentation certifying the newly registered situation. Technical Guidelines will provide the minimum requirement, for example, 5 to 10 owners, will clarify the grouping data related to the reduced number of parcels and reduced distance and intersections of main roads. This kind of incentive will motivate surveyors who will also encourage farmers for such an arrangement.

3. Knowledge

The voluntary land consolidation methodology sets out special knowledge requirements for each key player: **LRO, LC Commissions, Licensed Surveyors.**

a. Land Consolidation Office

LCO is responsible for: the effectiveness of other key players, in particular that of licensed surveyors and LC Commissions; contact establishment; quality checks prior to final payment; support and supervision of commissions and surveyors.

LCO needs - strong management and extensive experience from the initial stage, to give the necessary support to other key actors, many individuals of which have no prior experience on this new type of task.

b. LC Commissions

First of all, commissions need detailed instructions on the ownership update procedure, including the inheritance procedure, restitution claim procedure, public review, etc. Secondly, LC commission should have a basis for assessing legality of the land use purpose in the future. Since the spatial planning will become more advanced in the coming years, it will lead to increased volume of regulatory legislation, which will be implemented. Thirdly, the commission will implement internal rules on land regulation, and should time after time mediate and make a final decision.

The commission's knowledge requirements, determine task of supervision and continuous support, including seminars, annual commission seminars, issuing manuals, etc.

c. Private sector: Licensed surveyor

The licensed surveyor provides "interconnection" with property registers. The professional platform of the surveyor is accurate treatment and updating of property information in all stages of the process. This includes recording mapping, finding valuable property information and updating property records.

The surveyor in the process of land regulation undertakes an extensive interdisciplinary task, by dealing with the development of negotiations with landowners and designing the new situation. The surveyor can delegate a number of tasks to an unlicensed surveyor or agricultural advisor. They together constitute the LR designing team. The surveyor's main responsibility is to ensure that each owner receives a notice on the decision. Possibilities should be fully explored and consequences should be made clear to every owner.

The knowledge base, for this interdisciplinary responsibility, will be specified in two parallel efforts. One is the guideline and specification of LRO duties and experience gained during implementation. Another activity of building capacity can be encouraged to be developed by the profession itself. This is the so-called "Continued Professional Development" (CPD), through which the profession responds to the initiative of its new professional requirements.

4. Results

The implementation of land regulation can be understood as a combination of the main results and secondary effects.

The main results are:

- Defragmentation,
- Restructuring and
- Clarification of ownership.

The full potential of land regulation is achieved only when these combined results are achieved. It depends on the context or specific location; on what kind of combination or respective load these results will be materialized.

Secondary effects include:

- Employment and capacity building
- Actualization of property records
- Dissemination of information on the land law

This is a combined influence of the main results and secondary effects that justify the decisive, economic incentive of land regulation. (See Appendix 1 on the "Case on free transaction").

VIII. SWOT analysis on land consolidation

Detailed analysis of the situation in Kosovo, in relation to the organization and implementation of land consolidation process are focused on the advantages, weaknesses, threats and opportunities presented in the following table.

| Strengths | Weaknesses |
|---|---|
| <ul style="list-style-type: none"> • Basic legislation for land consolidation has been drafted • All those responsible for the implementation of land consolidation projects in different institutions on central, local and private level, have acquired experience • All documentation related to unfinished consolidation of '83-'89 in eight municipalities located in 98 cadastral areas, has been inventoried. • The number of potential young farmers who could be oriented to agricultural production and wishing to receive information on the advantages of land consolidation is increasing, • Appropriate environmental conditions for the development of agriculture and forestry activities (soil, climate, traditions, etc.). | <ul style="list-style-type: none"> • Insufficient and non-harmonised legislation • The size of small agricultural farms and forests and the unfavourable structure hamper sustainable and competitive development of agriculture and forestry sector. • poor rural infrastructure (roads, water supply for irrigation, waste treatment, etc.). • Lack of territorial planning (Municipal Development Planning) of the municipality, which will include the Land consolidation projects. • Loss of agricultural land from unplanned urban changes and reduction of potential surfaces for land consolidation • Unresolved disputes. Unresolved property legal relations matters. • Undeveloped land market, resulting as a consequence of non-regulation and incompliance of the cadastral data with the factual situation on the ground. • Unfavourable loans for land purchase. • No property has been registered in the cadastral documentation as per the, consolidation implemented in '83-'89.. • Use of property is back to the old situation, i.e. consolidation is not working. |

| Opportunities | Threats |
|---|---|
| <ul style="list-style-type: none">• Readiness of the political will to increase agricultural production and develop rural areas.• Availability of Agriculture and Rural Development Strategy 2007-2013 and Local Development Strategies for all municipalities in Kosovo.• Technical assistance and use of EU funds.• The possibility of using the experience from EU countries in the field of land consolidation.• Increase of prices for agricultural products in international markets and local markets.• Increased need for food production. | <ul style="list-style-type: none">• Movement of labours from rural areas towards urban areas.• The presence of administrative barriers within the institutions of the Republic of Kosovo.• Lack of land fund, to support farmers to participate in land consolidation projects.• Property legal issues are often unresolved and there are disputes on properties.• The cadastral data were removed or destroyed (by war)• Unrecorded transactions.• Requests for restitution of property.• Forged documentation.• Absence of property owners. |

IX. Complexity and uncertainty

In Kosovo, property records have not been maintained systematically, since the end of 80's. This was additionally aggravated by the last war. In some cases, the data are missing because they have been taken away or were never prepared, and some data are incomplete. In recent years progress has been made in the process of systematic property registration. Now the system has been established for identification and registration of property rights. Projects are underway to increase the efficiency of property records and to improve data quality,⁵ even though the quality of current data still remains generally poor. Cadastral maps and possession lists, yet in many places indicate the situation in the 80's. Some cadastral maps dating back to 1959 have been digitalised and there are ortho-photos of the end of 2004 showing the situation on the ground.

1. Incomplete data

a. Removed or destroyed data:

In some areas, municipalities and cadastral data or property were destroyed or sent to Serbia during the war. But there are more reasons for the lack of documentation. For example, during the old land regulation, it appears that companies which implemented major projects prepared the documentation, submitted the documentation of individual transactions to the owners, but not always delivered it to the municipality, reportedly because in some cases they were not paid in full for their service. In some of these cases, the documentation might have been removed or hidden before the war. However, as part of the procedure, the owners received documentation of transactions "before-after", on their particular property. This documentation has been maintained by owners and is an important part of their ownership documentation.

b. Unrecorded transactions

Since the 90-ies, for around 10 years property transactions between Albanians and Serbs have been banned.⁶ When such transactions were made, they were not reported. The name of the seller remained in the database and it stills exists in the possession list. This, for example, is detected when the registered owner in the possession list is Serbian, whereas the real owner is Albanian.

It used to be and still is a common practice, that the land is inherited, having no alternative to exchange inherited property. Most unrecorded transactions are such inheritance subdivisions. If there are more parcels, they sometimes are shared between people, without being sub-divided. Therefore, the current situation is often more fragmented than it appears in the cadastral maps of the '80.

2. Uncertainties:

a. Property Restitution Claims

Property restitution claims resulted from the armed conflict in Kosovo in 1999. Relevant cases where the owner or legitimate user can not enjoy property rights have been submitted to KPA⁷. Claims on rural land are still being submitted and by the end of 2009, they reached a figure of 36,410 cases. Therefore, for

⁵ See Kosovo Cadastral Agency website: www.ks-gov.net

⁶ Law on Transfer of Property, Official Gazette KSA, No. 45/81, 29/86 and 28/88, Article 32a.: Immovable Property Transfers are forbidden, if the transfer is made, between citizens of different nationalities of Social Autonomous Province of Kosovo”.

⁷ See www.kpaonline.org

each area of the land regulation project and for each other activity that affects property needs, it should be clarified if there are such claims in the area, what their content is and how the request could be addressed.

b. Unsettled disputes

There are still unsettled disputes from the land regulation implemented in the 80's. One of the reasons is that some owners have refused the land regulation plan, for example, refusing to receive or give land as planned. Although the new plan entered into force, the situation is that some owners have the valid rights on the land based on the law, but they have no access to it, meaning that, their rights are not applicable. These cases remain unsettled.

c. Forged documentation

The possibility of forged documents presents the main uncertainty. It is required in the registration of property transactions that transactions be recorded earlier - to track ownership to the core. There are reported cases when the buyer B, has honestly bought the property owned by a seller with fully documented ownership, which later proves to be forged.⁸

d. The absence of property owner

In all rural communities in Kosovo, there are many owners in absence (not present). Around 30 to 40% of the owners possibly live in other cities or abroad. This is partly due to the combined effect of inheritance tradition and very widely spread displacement. This presents a practical problem in land regulation, where the agreement should be discussed and concluded directly with each owner in person.

e. Ethnic tension

Ethnic tension in mixed communities complicates land regulation, as it prevents joint community effort. Moreover, "status-insecurity" explains why many of them do not live permanently in the village, making it difficult to contact and consult them.

Voluntary LR approach is built on the incentive that the participation is free of charge and owner will have the new property fully registered at the end of the process. This option is very attractive in the current situation in Kosovo, when fragmentation is significant and there is an extraordinary uncertainty in property registration.

The approach credibility should be increased through practice. Trust in the procedure will be established only when implementation is in progress, when people understand that their property is updated, when real attention is paid to their situation, when they believe in professionals they are dealing directly with and when they see how concrete negotiations result in useful solutions.

The main assumption is that MAFRD / LCO, who advertise the ambitious approach of voluntary land regulation, can really turn promises into real achievements. The relevant risk is on the implementation by other stakeholders.

8. Kosovo Property Agency www

9 For more details see "First check of civil judicial service" OSCE, June 2006, which explains in Chapter 2, p.21 that "Many individuals make use of current circumstances of displacement and lack of communication between Kosovar and Serbian institutions, to commit fraud on property, by using falsified documentation, issued in Serbia and Montenegro. These documents then are validated in Kosovo Courts, which are not aware of their fraudulent origin."

X. STRATEGY IMPLEMENTATION

Implementation blocks

Land regulation in Kosovo is foreseen to be implemented in four “blocks”:

Block 1: Land Consolidation Infrastructure

This block defines the land regulation management capacity and legal framework. LCO will be established based on the applicable legal provisions, to provide the appropriate management and technical expertise. The land regulation infrastructure includes LCO management capacity, land regulation legal framework and LC commissions functioning. (For details, see appendix 2).

Block 2: Land consolidation funds

This block contributes with funds for implementation of land consolidation projects.

Block 3: Loans for land purchase

This block provides long-term loans for farmers to increase the size of their farms. Terms of subsidies will be provided in the form of interest rate lower than 5% p. a. with the longest possible grace period. The determined conditions ensure that: the target group comprises really small farmers; the specified land parcels will become collateral (mortgage); further subdivision is prevented; and the debt is repaid quickly. The loan is channelled through commercial banks and it is processed during the process of land regulation. (For details, see appendix 3).

Block 4: Land Law

This block in the first stage funds two lecturing and research positions in land law. This is the first step in establishing the basis for academic basis and future research of a major part of new land related legislation. The applied research and close contacts during implementation help the researchers to acquire information and feedback from the implementation and prepare first textbooks and other training materials for agronomist, lawyers, and surveyors.

Land Consolidation is repetitive

1. Repetition

It is a tactic of undertaking wise steps, i.e. the division of the process in the sub-components where each of them is of manageable size and their implementation is done in a specified series. LC is implemented in three stages. The first is the baseline survey which serves to gain "an overview" of the situation. Based on this, a practical definition of the next phase may be given. The principle is that one phase provides the basis for determining the tasks and techniques for the subsequent phase. This technique of division in phases would also be a wise step for further processing.

Voluntary land regulation also provides the opportunity for practical phasing of mapping and surveying. The provision on the conclusion of agreements upon the presentation of the approximate area allows flexibility in the surveying requirements. It may not be necessary to record the existing situation and cadastral final recording can be postponed until when the actual exchange has occurred.⁹

⁹ See Administrative Instruction No 35/2006 on land regulation, article 16.5 and 24

The other aspect of repetition is to start with easier and less complicated areas, gain experience and continue with the basic routine, for example areas of unfinished land regulations with sufficiently good documentation, where people agree with the situation in the field and therefore there is no boundary disputes. In the same way, villages with clearly expressed need and interest will make good early projects. After this, more complicated areas can be addressed. Major complications are expected in large capital investment and certainly in the expropriation mandate.

2. Decentralisation

By delegating tasks at local levels complex decisions are transferred to the levels where relevant information is available. This practically means to work as much as possible at field level, rather than putting efforts in "office planning".

The Surveyor is a key actor in decentralizing detailed technical tasks and decisions. A very important task is assigned to the surveyor who is required to solve detailed issues in the process, which combines consultation, negotiation and planning and ends with the conclusion of agreements. The surveyor does this in consultations with the LC Commission and supported by LCO.

Consultation and agreements based on negotiations have widely open options in the planning phase, attracting local knowledge and preserving the opportunity to adjust the final solutions to human preferences and local circumstances. Thus, LR projects can start based on the leading principles, by not previously setting out the details of the plan. This combination of repetition and decentralization reduces the amount of general procedure information. .

3. Feedback (comments) procedure and capacity building

Feedback processes (reactions) absorb the experience and facilitate the adjustment of operational techniques, as a feedback to experience. Implementation will face specific cases and areas that need specific and fast solutions. Supervision points this out and gives feedback with necessary instructions.

"Block 4" on land law carries out this oversight and feedback process for legal cases. It oversees and analyzes the types of cases encountered, and provides feedback to implement the proposals for adjustments to the procedure or criteria and contributes in parallel to the training material for field staff.

Similar to this is registration, recording, mapping techniques and other special aspects: routines to be concretized after they have been proved and amended. Technical Guidelines will often be reviewed and distributed at training workshops and on the job training, which simultaneously will promote discussion. So, capacity building and feedback (reactions-comments) are closely linked.

4. Implementation of KPA technique for case processing

For more than 6 years, KPA has developed a system for processing restitution claims, and currently the process of registration of rural property requests, which is likely to reach its biggest number is under development. Case processing by KPA is applicable to land regulation: clarification of ownership in the early stage of land regulation; property documentation finding; confirmation of the validity of the documents; final decision on the new property. The difference is that LC is based on agreement, while requests of restitution above all avoid - dispute. LC will cover the entire locality, or most of it, while requests for restitution are only sporadic cases. Field work in LC will be performed by geodesists, while LC commission will play its role in verifying the validity of documentation. Despite these practical differences the same systematic technique will be applied.

KPA processing system is designed in the Kosovo context and has proven to be effective. Moreover, there may be cases when the settlement of restitution requests will become a part of land regulation. After that, it is likely that the same technique is applied to land regulation and expropriations.

5. External Assistance in capacity building

Direct external assistance is required, because the management function is the most decisive precondition. Management tasks are numerous and voluminous in scope, including legal, technical, financial, logistic management and auditing.

6. Cross-border cooperation

Kosovo and its closest neighbours share the same story on land issue. Most of the key issues in the classification of cases on land rights, restructuring of agricultural land and promotion of rural development, have basic similarities. States of the former Yugoslav Republic use as their starting point the same law on land regulation of 1987 and many surveyors who are currently in different countries, have previously studied together. There is a general need for a renewed approach in land regulation and rural development.

Cross-border cooperation can help in optimal utilization of resources in practical training, in research and exchange of experience in the process of renewal of the methodology at all levels. Farmer to farmer exchange relationship can channel not only exchanges in the narrow aspect of land regulation, but also visions for future agricultural investment that promotes the reorganization plans of their land.

Since 2002, the network in the framework of FAO has been active in Eastern Europe with particular focus on land regulation. FAO has held annual seminars and implemented pilot projects to regulate the land and projects for economic cooperation. Guidelines and manuals have been prepared for land regulation and rural development.

Kosovo / MAFRD participated in FAO's annual seminars on land regulation in Prague in 2006, 2007 and 2008 where LC in Kosovo was presented.¹⁰ Most Eastern European countries have participated in these sessions and have established contacts with colleagues on land regulation and rural development in neighbouring states. Cross-border cooperation helps capacity building and innovation.

7. Audit component

The powerful auditing component, serves to ensure efficiency and confidence in the achievements of the management unit.

The complexity of land regulation requires flexible decision-making. The participation of a large number of land owners based on agreement implies their direct impact in the final results and the discussions with landowners constitute the elements of the agreement. It is difficult to quantify the geodesist's offer, in a task which requires long-term consultations and might need further flexible discussion on content and price. Later on audit should be designed. In the legal field, procedures and principles on decisive issues will be subject to external oversight in order to acquire respect and unconditional trust.

The audit will include all categories of financial, legal and technical management responsibilities, (see appendix 3) and in such way it will provide adequate flexibility and scope of freedom of methodology in daily work.

¹⁰ See referring on the FAO website with seminars and publications

XI. Effects of land consolidation

Employment and Capacity Building

Regulation of the land creates considerable employment. Professionals involved will acquire experience and the capacity of the property sector is strengthened as a whole. Commission Members have a four-year mandate and will participate in all meetings of the LC in their communities and if they have knowledge, they become important carriers. Geodesists responsible, can delegate more (time-consuming) field work to young geodesists teams and agricultural consultants, who will constitute the largest number of active occupations. LC shall involve key professionals at all levels, including the central LCO, municipal court, commission members, geodesists and agricultural advisors and because it is an activity based more on the field, the largest number of them will be active at the local level.

Actualization of property records

The legal basis of land regulation gives a broad mandate to update the ownership and property information. The ownership update can be handled as transactions that are based on agreements and when the real owner is the legal owner, he may enter into agreement to regulate some of his parcels. LC registration provides updated text and map property information. In this way, LC helps CCA in updating the property database.

Information on the Law on Agricultural Land

An informative activity is undertaken to understand the rules of land regulation and requirements relevant property documentation. When concrete opportunities are presented to each owner, it is the responsibility of LC designing team to make the owner understand these possibilities and their respective consequences. The owner must understand how transactions should be made based on the Law on Agricultural Lands, which the Ministry of Agriculture, LCO and municipal commissions for land consolidation are obliged to interpret.

ANEXXES

ANNEX 1: The case of free transactions

Free participation including technical support in the negotiations and the resulting property transactions, is a prerequisite for access to voluntary land regulation. There are some additional benefits to this expenditure.

Incentives for farmers

Agriculture households: Many land exchanges are not made because the efforts and transaction costs of small land parcels are too high and the profit is lost in the costs. In addition, ordinary people do not possess the technique to carry out big mediated exchanges. Farmers appreciate the chance for technical assistance and free registration.

Official security of the right: Increasingly, farmers are becoming aware of the importance to have up dated property data and to have the possession list on their names.

Settlement of dispute: free transactions make it easier to resolve the dispute. People become subject to special pressure to conclude an agreement, on the contrary they will not be included in land regulation and because this land regulation is voluntary, they do not have any legal right to be involved.

Incentives for administration

Cadastral update: the new ownership situation is recorded and registered accurately in IPRR. By doing that, land regulation contributes to the updating of owners and parcels data in the map and text. LR provides "clear" ownership situations with a smaller number of parcels. Therefore, land regulation helps in actualization of cadastre.

Conditions: Because services are free of charge, administration is in position to set conditions. Guidelines inform what kind of improvement is required for agricultural land. Then the request for land regulation should argue that it will give the desired improvements.

Facilitating civil courts: Land regulation facilitates the overloaded work of the courts through confirmation of the validity of documentation, mediation in disputes and dealing with property transactions.

Dynamic subsidy: subsidy on farm restructuring is to support land regulation. It includes dynamic farmers, who are ready for change and includes beneficiaries "who are paid (compensated) in goods". In addition, land regulation is in line with the leaders approach, envisioned in the EU rural development concept.

The request for partial payment is problematic: Land Regulation Office may attempt to collect a small amount of money from many persons, which will also incur cost. In the land regulation project designing process this would represent the element of risk. People would have to make the payment as a precondition of their participation, however it usually happens that their payments are delayed or eventually fail, after which, they would be excluded and the plan would have to be corrected and negotiations repeated at a later stage. But the main concern is that beneficiary's request for payment would probably not motivate landowners to join the land regulation.

ANNEX 2. Land Regulation Office

Main responsibilities:

Legal Management

Legal Procedure: LRO ensures that the legal framework is set out in the form of the Administrative Instructions, oversight and ongoing support, including self-management, leading of commission procedures and interaction with other legislation on planning, forestry, roads, etc.

General Responsibility: LRO is ultimately responsible for land regulation and as such receives complaints and compliments for the effectiveness of the commissions and requests for compensation for technical errors.

Technical Management

Activity of awareness and information: LRO disseminates general information on land regulation, informs about concrete existing support and guides farmers and projects to take initiative and prepare applications.

Technical Guidelines: LRO establishes consensus among stakeholders in addressing different technical tasks that result in technical guidelines, procedures and clarification of the ownership, acquisition of data and preparation of maps on land regulation to be handed over from the geodesist to land regulation commissions.

Capacity building: LRO is responsible for the effectiveness of all competent players and as such responsible for building the necessary capacity, including the introduction and proper support of the new commission members. Capacity building will be delivered in constant dialogue with stakeholders on specific technical issues.

Data availability: The availability of geographic information is crucial for any activity involving land reform. LRO helps in providing necessary materials such as ortophotos, extracts from property records and old land regulation documents.

Financial management

Tools: MAFRD / LRO is responsible for mobilizing resources for land regulation: It is responsible first for the functioning of the land regulation infrastructure and second for the implementation of several land regulation projects.

Co-financing: In cooperation with other sub sectors, within the ARDP 2007-13, such as the rehabilitation of irrigation projects and improvement of forests, LRO will plan cooperation and co-financing techniques for land regulation projects in different contexts.

Auditing: A special audit component will ensure the appropriate implementation of contracting, reporting and cash flow in all LR projects.

ANNEX 3: The concept of loan for land purchase

The loan for the purchase of land serves for two purposes: first, to enable semi-traditional farmers to increase the farm size by making net purchases of land; second, to stop subsequent inheritance subdivisions. These in combination achieve sustainable transition towards farmers' properties that are economically more viable. Technical aspects of the concept of such a loan include:

Targeted to a focus group:

The group of focus are small farmers who are unable to buy additional land. Their main characteristic is that they are willing to work in agriculture and improve their productive efficiency. The loan will enable farmers to actually buy from the inheritor and stop the fragmentation due to inheritance.

Negotiation of terms and subsidy:

Land regulation significantly mitigates the risk, by offering clarification of property for many more agriculture households. This should be assessed by banks, which channel EFSE¹¹ funds for rural credit in the form of lower percentage of interest. This will be negotiated in concrete cases. We will need to add an additional subsidy to achieve a low interest rate of about 5% or less. Moreover, it would probably be necessary to have longer-term investment to realize the potential of increased agricultural properties.

Setting out the price:

The loan is important for agricultural use only and may be provided as funding (a part, for example 80%) for agricultural use of land value. This will initiate the process of revaluation of land prices against real price level of agricultural land, for potential vendors, as well as credit institutions.

Assessment:

The loan assumes the methodology of agricultural use value assessment, because well thought use and agricultural production will be the basis for the repayment of the debt. Value of agricultural use, can be found by using the level of annual rent for the area as an indicator. These can be controlled based on the limited amount of data. The loan assessment is undertaken by loan institutions only for themselves and for individual assessment of the value of agricultural use based on which they make offers to the owners concerned

Land Security in specified conditions:

Land as collateral is crucial to provide the security that responds to facilitated loan conditions. Land security on particular parcels enables sanctions in case of repayment failure. It should be taken into account that the legitimate exception is for the land to be located outside village settlements. A credit institution must be authorized to take ownership in case of repayment failure, to lease land or to manage it freely.

Special conditions:

Loan given for land purchase will contain specific conditions, in order to ensure optimal land use. The order of several actions will activate the payment of the unpaid amount, or the payment of the full amount

¹¹ European Fund for South-Eastern Europe

in cases of property sale, sub-division and sale of a portion of the property, sub-division for inheritance purposes. The residency obligation will ensure that the farmer is a real farmer. Regulations on inspection and enforcement should be drafted in simple way

Loan with or without land consolidation:

Loan for land purchase can be made through land regulation. Funds for land purchase and the necessary guarantee will be provided through linkage between designed land regulation and loan institution. AI, Article 19, defines the procedure for handling of payments, provision of bank guarantees and bank transfer through a credit fund. LC will provide clarification of ownership as the security basis and parcel designing to be used as collateral with direct access to specific roads and special cadastral identification. Basically, the loan can be obtained even when a small farmer has the opportunity to buy additional land in the market. However the submission process can be more expensive.