

**Actual Trends
concerning
Land Management, Land Readjustment and Land Consolidation
in Europe**

- Possible Fields of Research -

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1. Introduction

This report was elaborated in order to demonstrate that land management related issues are of actual importance, and not only in the running transition process in Central and East European Countries (CEECs) but also again in the Western European Countries (WECs). That concerns the land management (with all its instruments) in general; that particularly concerns land readjustment and land consolidation instruments.

This contribution is not suitable to give a comprehensive demonstration in all its complexity. I can only give an overview over the current situation and describe the mainstream of the development concerning land management with the focus on obvious or probable fields of research; in that context I want additionally to give remarks on actual international activities concerning land management issues. Thus, this report is just a kick-off event; if of relevance, a further COST action might follow.

2. Starting point

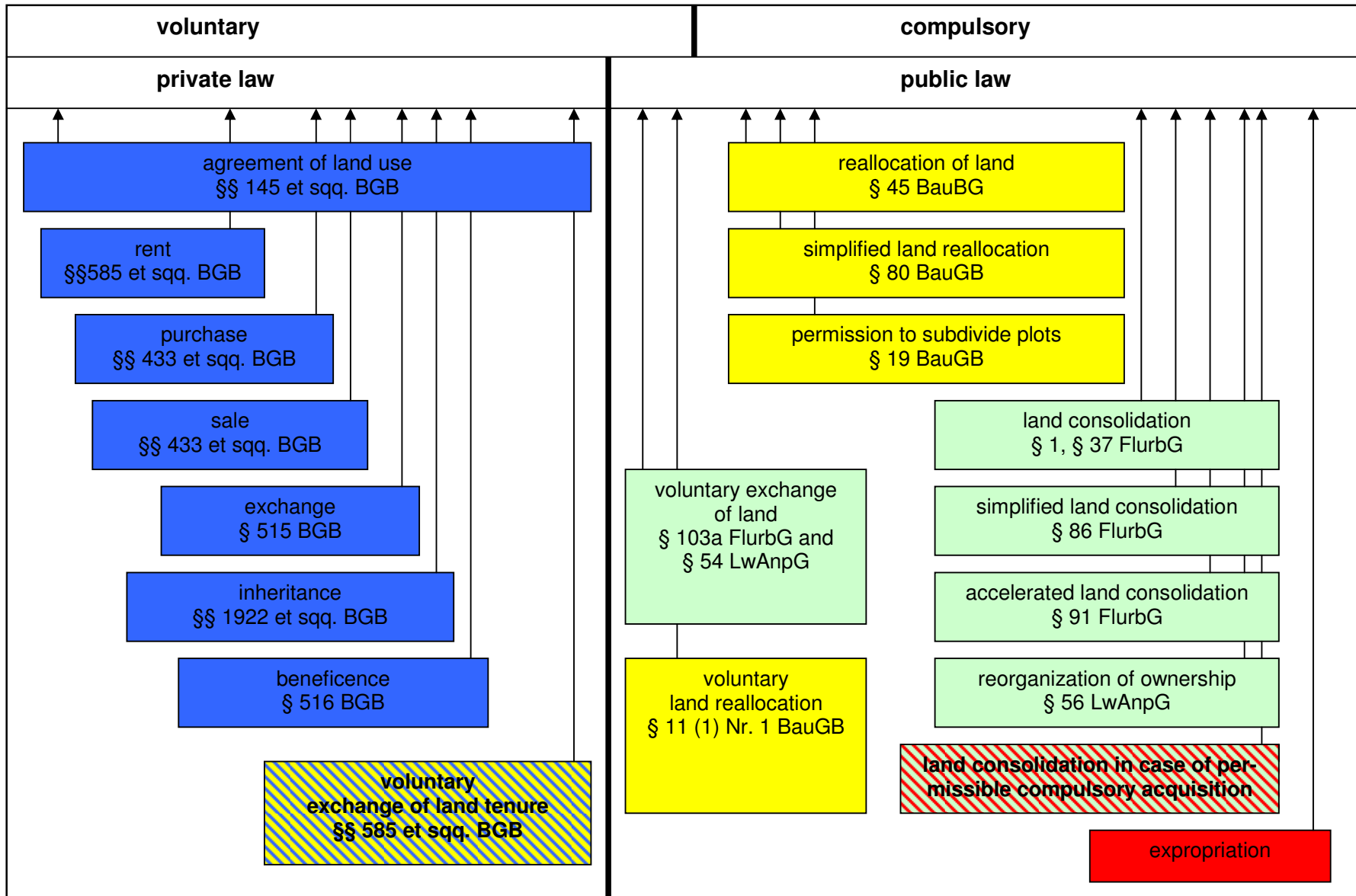
The starting point in CEECs is rather different from that in WECs. Since we have in WECs a long tradition and much practical experience in land management with the tools of land readjustment and land consolidation, CEECs are standing at the beginning. That concerns all aspects like legislation, implementation, establishment of authorities, technical approaches and not at least education of the staff in that issues; and finally the awareness on the need of these instruments in the population, politicians and acting experts is also quite different.

Before we deal with actual developments and trends it is to define what we treat:

2.1 **Land readjustment** is likely to bring current land use, land ownership issues and other land tenure (individual subjective property rights) in accordance with private and public requests on the land use (manifested in planning goals) and/or to eliminate disturbing effects according to plan (THOMAS 2004), (SEELE 1992). Measures of land readjustment in the broadest sense stretch from unpretentious land use agreement by contract and free-hand acquisition of land on to a legally enforced expropriation (THOMAS 1995 b). Within this area, all land management measures like land readjustment in a narrow sense and land consolidation are located.

In Germany we have an extensive offer of land readjustment instruments:

Land Readjustment in Germany



In WECs we traditionally distinguish

- land readjustment (in the narrow sense) as the sovereign compulsory tool for urban areas
and
- land consolidation as the sovereign compulsory tool for rural areas (see also SONNENBERG 1996).

Mostly, a special legal basis for each other is given: In Germany we have for a land readjustment procedure the legal base in the Federal Building Code (BauGB) and for land consolidation in the Federal Land Consolidation Act (FlurbG).

2.2 **A Sovereign Land Readjustment** procedure is a mean to execute an enforced urban planning and to adjust the parcels concerned to the intended development; land readjustment procedures are common in settled areas of cities; concerning the relevance of land readjustment see LARSSON 1993.

Special land readjustment laws are only existing in a few WECs like Germany, France and Sweden. Countries like Japan, South Korea, Taiwan, India and Western Australia have also a special legislation for these urbanization activities by means of land readjustment. In Japan land readjustment has also been used to support the allocation of land for larger infrastructural facilities; greater fairness will be achieved in this way, damage and elimination within the existing structure will be reduced and at the same time land acquisition often becomes easier to accomplish. Other Countries

like USA, Norway, Nepal, Thailand and Indonesia carry out land readjustment on a voluntary basis - or by expropriation. At time, Cyprus Government is working in order to make the land consolidation law applicably also for settlement problems.

2.3 A **Land Consolidation** procedure is a mean with view to improving the production and working conditions in agriculture and forestry as well as promoting the general use and development of land and rural areas by re-arrangement of agricultural land; in a land consolidation procedure settlements like villages are not needed to be excluded (THOMAS 2004).

Land consolidation laws are well established in all continental WECs, partly established since more than 100 years. And in all cases, the impetus was to improve the production and working-conditions in agriculture. The high period of the "classic land consolidation" was during the sixties and seventies in context with the European Unification; the most important target was to increase the competitiveness of the national agricultures, mostly under a programmatic umbrella.

Since the German unification in 1990 for the East German Länder (in the area of the former socialistic German Democratic Republic) - additionally to the Federal Land Consolidation Act - a "Law on Adjustment of Agriculture" (Landwirtschaftsanpassungsgesetz - LwAnpG) is available; it is a special regulation concerning re-arrangement and adjustment of farms and rural real estate. That law is the basis for the regulation of restitution requests of former owners as well as the transformation of the former legislation into

the current legal system of Germany concerning land ownership and building ownership. It makes possibly the implementation through land consolidation.

The most important difference between urban land readjustment procedures and land consolidation procedures is that in the first case the procedure sets up on a already finished and enforced planning (in Germany: a legally binding land use plan), in the second case the planning phase for the new landscape design is embedded in the actual procedure concerned.

Since in CEECs land readjustment in urban areas doesn't yet play any role is land consolidation 'en vogue'. Land consolidation is seen as a 'secrete weapon' to solve all these problems in rural areas which the transition process caused. Famous international institutions like United Nations Economic Commission for Europe (UNECE), Food and Agriculture Organisation (FAO), World Bank, EU Commission provide for help and thus they think of this mean.

But, sorry, many many "experts" speak over these instruments who never did work with. In this scene we have so many "land management experts" that a real man of practice is mostly a 'paradise bird'. Not only but also by these circumstances we have to state a "Babylonian confusion of languages" in the terms of land management; I'll come back on it at the end.

3. Actual development and trends

The running development in land management and its instruments is mostly signed by the actual public need in general and the need in land use in particular: there is a concrete and urgent problem and the government looks for solution; sometimes the development is result of an autonomous progress in work by technical or practical demand.

3.1 Concerning **land readjustment** in urban areas I cannot watch any important development, neither in West nor in East Europe. Countries having corresponding laws apply these laws or not, countries without such instruments solve their urban planning and development problems otherwise.

But even two aspects on the development in Germany:

1. Within the adaption of the environmental aspects of the Federal Building Code to the preconditions of European law also the statutory provisions concerning land reallocation have been developed by the "Europarechtsanpassungsgesetz". The amendment intended a lean administration, more suitability in practice, a harmonisation and a clearer structure of the legislation concerning land reallocation. This concerns in particular the different preconditions of legal consequences of land readjustment within binding land use plans on the other hand. The procedure of a boundary regulation has been developed to a simplified land readjustment instrument - the "Simplified Land Reallocation". In cases of uncomplicated tasks of land readjustment it

can be used as "small land readjustment" and lead to fast and appropriate solutions in practice regarding the general conditions of the application of the "classic land readjustment" and taking the advantages of a little procedure expenditure.

2. In Germany there is to state an interesting trend:

the application of these tools, mentioned above, is decreasing during the last 10 years. As well in the center of the cities (in case of upgrading, reorganization or renovation projects) as in new residential or industrial areas in the open space at the frontier of the settlement, the communal administration doesn't regularly use these sovereign land management instruments; if yes, only in exceptional cases. These projects are mostly implemented by simple buying and selling on negotiating and voluntary contracting base.

The reason is, that the local (communal) politicians don't like resistance of the land owners and remonstrations by involved citizens against their decisions, who don't want to lose their plots.

Thus, in rural areas many communities transfer, legally allowed and regulated, the responsibility for land readjustments procedures in the settled areas concerned to the (state) land consolidation authority which implements the requested procedures with reimbursement of costs by the community.

3.2 Concerning **land consolidation** the situation differs totally; in West and East Europe we have to state a powerful development, al-

though "the end of the land consolidation" was already predicted. The reasons for this change are various:

land consolidation in WECs changed since about 20 years

1. from an sectoral, agricultural farm-focussed instrument to an instrument which is likely to cover public demand in land and to solve land use conflicts (THOMAS 2004),
2. from a landscape destroying mean to an environmental-friendly and sustainable land management instrument (THOMAS 1995 a, 1998).
3. A third impetus came from the European Union where land consolidation was investigated as an indispensable mean for an integrated rural development. And as you know, in the implementation of the CAP the infrastructural improvement of rural areas has priority before the immediate monetary transfer to farmers.

The intensity in the application of these new approaches and implementation of these new targets even differ from country to country in West Europe. It seems to depend on the actual agricultural structure and the real land use pressure by a high population density. Since in Spain, Portugal, Finland, Sweden land consolidation has yet traditional approaches, are for instance Netherlands, France, Germany additionally going on ahead in solving public interests.

The driving forces behind **land consolidation in CEECs** are actually the land reform disasters of the nineties when the countries in transition privatized agricultural land. They abolished the traditional

agricultural production structures; the agricultural production decreased rapidly, down to 50 % and less (THOMAS 2005).

That is the actual political challenge and causes many activities by the international community and national governments since about 10 years. With view in the future, in mind of FAO additional driving forces behind land consolidation should be:

- the CAP of the EU,
- rural development,
- efficient multiple use of rural space, including improved agricultural efficiency,
- natural resource management,
- infrastructure, environment.

That demand is well defined and written, but doesn't find any response or reaction in legislative activities concerned. In CEECs many activities are existing, mostly driven by local or regional actors having the pressure that something happens. But results are missing. Instead of designing and enforcing national programmes, adopting relevant laws and establishing efficient administrative structures, most of these countries mark yet time. They try to get experiences in pilot projects. In such a situation the constitutional and legal framework gets regularly out of view.

Various approaches to land consolidation are pursued:

- land consolidation by market transactions (Albania),
- voluntary exchange of land parcels (Armenia, Georgia, Bulgaria etc.)

- comprehensive compulsory land consolidation (Czech Republic, Slovenia ...).

Common features of all approaches are

- a broad participation of all involved persons and institutions,
- community-driven decision making,
- transparency (FAO workshop Prague 2005).

Since countries like Czech Republic and Slovenia have a solid legal base and an adequate administrative power to make land consolidation efficiently, most of the CEECs are just in an experimental phase and are yet dealing with land consolidation pilot projects executed by external private companies - on an voluntary base as I mentioned.

Interesting activities are to watch in China since some years. The Chinese government is not only interested in improving the general livelihoods in rural areas by rural road construction, village renewal, irrigation systems and so on; since some years they also deal with "land consolidation" as a mean to adjust the actual land use to an optimized. But this kind of land consolidation is not set up on the ownership structure but on the land tenure structure. In China the distribution of agricultural land occurred/occurs by rural authorities, so called "contractors"; they contract arable land to the collective. The collective is often a village; the collective distributes the land awarded to it to individual households. Thus, the ownership of the land remains with the collective, but the rights to use the land are awarded to the farmers for a specified period of time. At the moment, this time period is 30 years, which means that a farmer

within collective literally gets the land tenure of a piece for a 30-year period. If during the period a change of the tenure is needed, whatever caused by, it is difficult to displace farmers. Thus, "land consolidation" is a re-arrangement of the land possession and not of the land ownership structure. Last months I had to care for two Chinese administration officers at a master thesis dealing with environmental aspects and participation methods "in land consolidation".

4. International support and scientific activities

As already mentioned before, the international community tries to give targeted **fundamental support** for a better economic progress in CEECs:

The **Food and Agriculture Organization (FAO)**, particularly focussed on the agricultural and rural sphere, implements meetings and **workshops** to special topics in the context of land consolidation. I want to mention the workshop in March 2004 in Tonder/Denmark, dealing with Land Banking and Land Funds , and the workshop on Land Consolidation in March 2005 in Prague/Czech Republic.

Two important **FAO-publications**, where I worked with, were edited last time:

- The design of land consolidation pilot projects in Central and Eastern Europe. Rome 2003, ISBN 92-5-105001-5.

- Operations manual for land consolidation pilot projects in Central and Eastern Europe. Rome 2004.

The **United Nations Economic Commission for Europe-Working Party on Land Administration (UNECE WPLA)** organizes **workshops** twice per year on social and economic benefits of good land administration, particularly in countries in transition; and since 6 year these workshop deal also with land consolidations issues. The themes about land reform and land consolidation are also treated in requested **Land Administration Reviews** by CEECs.

Since 2003 there is the **Celk Center (Central European Land Knowledge Center)** in Budapest launched by World Bank and Ministry of Agricultural and Rural Development of Hungary. The Celk Center's mission is to serve Central, Eastern and South-Eastern European Countries as a regional land knowledge management, information and advisory center on Land Market and Real Property Rights related issues. The **Celk services** are 1. Networking Service, 2. Knowledge Pool Service and 3. Project Coordination Service. Additionally Celk Center created an **Exchange Programme** for persons with valuable knowledge in land market related issues, who would like to be involved in sharing and receiving information about the land market situation in an international perspective. With a **Research Programme** based on Country Reports, Celk Center will improve and support the solution of cross-country ranging questions and problems; these Country Reports, each in a comparable structure, want to give a general overview of land market development in CEECs with special emphasis on land reform, land privatization, land consolidation and land fragmentation.

The Research Programme will focus on young academics from the target region and aims to support and encourage experts and PhD students on the relevant fields.

In the **scientific scene** we find some specific solitaire publications on the need of land consolidation in CEECs (see for instance VAN DIJK 2003). A fundamental publication of the FAO is in work: under "CUREMIS" the Food and Agriculture Organization publishes "Current and Emerging Issues for Economic Analysis and Policy Research". The next edition will deal with CEECs. The part "Property Rights, Land Fragmentation and Emerging Structure of Agricultural in Central and East European Countries", elaborated by me, will contain a couple of research fields in context with land consolidation in CEECs (THOMAS 2005).

With regard to the fields of research in WECs I want to mention two fundamental activities concerning land consolidation:

- A **transnational EU-INTERREG III C project "FARLAND"** (Future Approaches to Land Development). Partners in that project are Portugal, Galicia (Spain), Flanders (Belgium), Netherlands, Northrhine Westphalia (Germany), Hungary and Lithuania; the institutional partners will be accompanied by scientific institutes in Germany, Hungary, Spain and Netherlands. In the application form is formulated:

"Integrated land development is a planning and implementation process at regional and local level, which aims to create a suitable physical environment, meeting the current and future needs of society. Change, exchange and merging of private and public land is a central element in this approach. Land development evolved over time from a

purely sector approach to a broad regional development instrument. Gradually it is getting more and more embedded in regional policies that go beyond the "green" functions of regions. Land development and land banking are used nowadays to facilitate and complement policies to establish new residential areas, to fit in infrastructure, to improve the livelihood by village renewal and to solve typical problems in peri-urban landscapes. Links between land development and other regional policy instruments are also strengthened by the fact that land development nowadays is a clear regional competence in most countries. In a number of countries it developed from a sector oriented instrumental approach to an open flexible goal oriented approach. Widening of the approach towards multiple objectives requires more flexibility and it requires a bigger range of tools to tailor approaches to specific problems in regions. Although the general trend of more integration, decentralization and flexibility is a common phenomenon, this development is in different stages and it takes different forms across the region of Europe.

The FARLAND partnership will stimulate exchange of knowledge and experience and contribute to the upgrading of instruments for integrated land development."

So far the application; we are hopeful to get the admission and the EU-funding. Whatever the decision of the Committee will be, in this field there is a need for scientific activities.

- The second is a wide ranging **project in Northrhine-Westphalia (Germany)**: in context of the interior reforms of public authorities and services we have to make transparently the costs of our "products" (public services) and to calculate the total public gain - the national

gross domestic gain for the society. If you should be already involved in such an evaluation, you will be able to consider the problems in context with public legally oriented services. Now, for "land consolidation procedures in case of permissible compulsory acquisition", which are implemented for instance for highway projects, railway projects, dike projects etc., we have a broad sophisticated approach for the calculation and evaluation of the total public gain. I think, in future such calculations have to be done in public measures, principally.

5. Probable fields of research

Coming to the end, I want to lead your eyes to some probable fields of research:

- **Fundamental research**

- Why do have the one countries different land readjustment and land rearrangement laws and the others only a single? And why does not need the rest anything? Is it a question of tradition, of culture, a question of the constitutional framework? Or is it only the result of active lawyers? The answer on these questions might be of interest for countries just considering their legislation concerned.
- Indispensable legislation (in kind of core regulations of a law) for an effective implementation of land consolidation procedures in terms of equality and good governance.
- Linkage of the land consolidation procedures to the constitutional rules: is that what is done in compulsory land consolidation procedures in accordance with the constitutional and legal framework? Is a land consolidation law dispensable?

- What's on the voluntary land consolidation in terms of equality and affectivity?
 - Which kind of land consolidation is adequate to the actual situation? Interaction costs ./ private and public again?
 - How to calculate the public gain of land consolidation measures?
 - What are the key factors of success and unsuccess?
 - How to link land consolidation programmes in agricultural and national development programmes?
 - On the capacity gaps
 - in education (development of adjusted and adequate curricula),
 - by politicians, stakeholders and farmers,
 - awareness building in the society (communication problems).
 - What's on the terminology in land readjustment and land consolidation?
- Detailed **procedural questions** (see for instance THOMAS 2005)
 - on general and specific preconditions for successful land consolidation procedures,
 - on the appropriate technical standard depending on the status of establishment of the land book or real property cadastre,
 - on the most appropriate valuation schemes in CEECs,
 - on financing models for land consolidation,
 - on a design for an appropriate monitoring and evaluation system,
 - on the right mix of private and public involvement in land consolidation.

6. Final Remark

As you saw, in the field of land management, particularly in land consolidation, we have to state a very strong development, and that in East and West Europe. The development in East Europe is mostly driven by economic and social problems; in West Europe the driver is the cohesion policy of the EU. Thus, I can only repeat what I said at the FIG symposium last year in Volvic:

"Modern land consolidation doesn't have a general standard and should not be uncritically transferred to other countries. The design of modern land consolidation is only determined by the national circumstances and challenges concerned" (THOMAS 2004).

At time, land consolidation is an actual and wide field of research.

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