



Food and Agriculture Organization  
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# Preliminary findings of the Regional Study on Land Consolidation Legislation

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11th Session of the Working Party for Land Administration  
27-28 February 2019



**UNECE**



## Background

- **Kick-off – January 2018**
- **Objective – Guidance document on drafting land consolidation law**
- **Study based on regulatory practices in Europe**
- **In line with VGGT**





## Experts involved

- **Main working group**
- **Key persons from all analysed countries**
- **Participants of the 10th LANDNET workshop**
- **Lead researcher Tomas Versinskas**





## Analysed countries

- **Selection criteria**
  - long LC tradition
  - specific approach (illustrating the diversity of land consolidation practices in Europe)
  - relevance for the FAO programme countries
  - importance for a particular group of countries, sharing comparative historical background
  - efficiency of the research tools available regarding a specific jurisdiction



## Analysed countries

- **Detailed analysis**

- Denmark
- Finland
- Germany
- Lithuania
- Netherlands
- Serbia
- Spain
- Turkey

- **Selected countries**

France, Norway, Poland, Portugal, Slovenia

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## Initial information

- **Key persons from analysed countries provided initial information on:**
  - Legal acts, regulating Land Consolidation in the country
  - Hierarchy of such legal acts
  - Sources, where the acts can be found
  - Eventual English translations of legal acts
  - Additional information and comments



## Country summaries

- **Objective – gather country information and ensure comparability**
- **Key legal issues in LC identified**
- **Country summaries prepared following standardised structure**
- **Method: desk work + consultations with key persons**

## COUNTRY SUMMARY

### DENMARK

25 April 2018

Keywords: Land consolidation – jordfordeling

#### \* Abbreviations

LC – Land consolidation

LCP – Land consolidation project

Law on Land Consolidation – Law on Land Consolidation and Public Purchase and Sale of Real Property for Agricultural Purposes, etc. (Law on Land Consolidation, with the relative amendments made till 04/01/2017)

LGD – Local Government Denmark (LGD – Association of Municipalities)

EIA – Environmental impact assessment

RDP – Rural Development Programme

#### INTRODUCTION

According to Eurostat<sup>1</sup>, “[i]n Denmark, there were 42 100 agricultural holdings in 2010 (...). About 16 000 farms<sup>2</sup> ceased their activities in Denmark (-27%) over the inter-census period<sup>3</sup>. However, this declining trend in the number of farms was common among the countries of the EU-27. (...) The utilised agricultural area (UAA) in Denmark remained fairly stable between the two reference years; there were 2.6 million hectares in 2010, covering 61% of the entire country in 2010. This was one of the highest proportions recorded in the EU-27. (...) As the number of farms decreased and agricultural land remained stable, the average size of the holdings grew (+37%): from 46 hectares per farm in 2000 to 63 hectares in 2010. As a result, Denmark was among the EU Member States with the highest average area per farm. (...) [T]hree size classes of farms were equally common in Denmark, each with 19% of the total population of farms. These three size classes were 5 to 9.9 hectares of agricultural land, 10 to 19.9 hectares and 100 or more hectares of agricultural area. In

1 Eurostat, “Agricultural census in Denmark”, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Agricultural\\_census\\_in\\_Denmark](http://ec.europa.eu/eurostat/statistics-explained/index.php/Agricultural_census_in_Denmark), last visited 26/03/2018.

2 Note of the authors of this document: Regarding the notion of farm and holding, see: Farm Structure Survey 2009/2010, Survey on agricultural production methods 2009/2010, National Methodological Report (NMR), p. 4, [http://ec.europa.eu/eurostat/documents/749740/749313/DK\\_NMR\\_FSS\\_2010.pdf/b65af00-63ea-4543-b063-370c4b278a8a](http://ec.europa.eu/eurostat/documents/749740/749313/DK_NMR_FSS_2010.pdf/b65af00-63ea-4543-b063-370c4b278a8a); Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November 2008 on farm structure surveys and the survey on agricultural production methods and repealing Council Regulation (EEC) No 571/88, Annex II, <http://eur-lex.europa.eu/eli/lex/serv/eli/lex/serv.do?uri=OJ:L:2008:321:0014:0034:EN:PDF>.

3 Note of the authors of this document: Period between 2000 and 2010.

#### LEGAL ACTS

In Denmark the “first “modern” land consolidation law was adopted in 1924<sup>13</sup>. Currently, there is a law dedicated specifically to land consolidation – Law on Land Consolidation and Public Purchase and Sale of Real Property for Agricultural Purposes, etc. (Law on Land Consolidation). In the table below, Danish legal acts regulating land consolidation are presented according to their hierarchy:

Legal Act (Original title in Danish)	English title	Date of adoption
* Bekendtgørelse af lov om jordfordeling og offentligt køb og salg af fast ejendom til jordbrugsmæssige formål m.m. (jordfordellingsloven), nr 31 af 04/01/2017	* Law on Land Consolidation and Public Purchase and Sale of Real Property for Agricultural Purposes, etc. (Law on Land Consolidation)	04/01/2017
** Bekendtgørelse om jordfordeling, nr 331 af 25/03/2013	Executive Order on Land Consolidation, no 331, 25/03/2013	25/03/2013
** Bekendtgørelse om jordkøbsnævn, nr 1220 af 18/10/2007	Executive Order on Land Fund no 1220, 18/10/2007	18/10/2007

#### 1. OBJECTIVES OF THE LAW ON LAND CONSOLIDATION

The objective of the Danish Law on Land Consolidation is defined in its Article 1:

*The objective of the Law is to*

- 1) ensure better commercial exploitation of agricultural properties by reducing land fragmentation and increasing sizes of agricultural holdings,



## GUIDANCE DOCUMENT

- **Identification of “BEST” practice**
- **Identification of “poisonous instruments” (efficient in one country, but dangerous in another)**
- **Getting away from “standard” legal logic (wide variations in legal systems, where Guidance will be potentially used)**





# LOGIC OF GUIDANCE DOCUMENT

- **LC LEGAL ISSUE**
- **RELEVANT COUNTRY PRACTICE**
- **RECOMMENDATIONS**



## 4.4.2 Elected representative bodies

Country practice reveals that in most of the cases, where stakeholders' meetings are organized, bodies representing stakeholders in further LC procedures are elected. It is recommended to make the election procedure of representative bodies comparatively flexible, in order to best ensure the representation of all stakeholders. To this end the land consolidation legislation should not determine the exact number of the representatives to be elected. This issue may be left to the stakeholders to decide and if there is a disagreement on who should be elected into a representative body, instead of arguing on the personalities, the number of the representatives could be increased by mutual consent and additional persons added. This would ensure better representation of different interests and save the stakeholders from unnecessary conflicts. Such is the case in Denmark.

In most countries such representative body members or representatives are elected by a simple majority of votes of the landowners present in the meeting. Such is the case, for example, in Germany, Denmark, Finland.

### **BOX 24 Landowners' committee in Law on Land Consolidation, 2017 (Denmark)<sup>1</sup>**

#### Article 3 paragraph 2

(...) The Minister or the person authorized by the Minister may call a landowners meeting where the case is explained and where the majority of the landowners that are present elect a landowner committee. (...) The Landowners' Committee represents interests of the Landowners' Community. (...)

### **BOX 25 Landowners' representatives in Real Estate Formation Act, 1995 (Finland)<sup>2</sup>**

#### Section 94 paragraph 1

(...) In the cadastral survey meeting, the majority of the joint-owners present may elect one or more representatives to take part in the pre-assessment of the matters to be handled in the cadastral procedure. (...)



# Key recommendations

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- 27 topics on Key recommendations cover many aspects of land consolidation such as:
  - key features
  - objectives
  - institutional, and financial provisions
  - topics for the implementation of land consolidation:
    - reallocation planning
    - valuation of property
    - cadastral surveying
    - land banking



# Key recommendations

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**Women's organizations.** Women's organizations should be involved in the whole land consolidation process. On one hand, they could ensure the respect of general gender equality in the process. On the other hand, these organizations may best express the position and needs of women in land management in general and in land consolidation in particular. It may be that interests of farmers of different genders may conflict. Or it may be the situation that the decisions regarding the consolidation of a parcel, which is of essential importance for the family are taken without equally considering the position of both spouses. Therefore, women's organizations would be an excellent instrument in detecting inequalities and raising the relevant issues, without subjecting individual women to a supplementary pressure in the community or family.

**Environmental organizations.** Land consolidations should be implemented in a sustainable way and respect environment. This instrument may also be used for attaining environmental objectives. Therefore, inclusion of environmental organizations in the process may bring essential value to it. Having a possibility to hear the opinions and positions of such organizations, besides respecting sustainability and environmental principles, would add additional trust in society with regard to land consolidation.

## Key recommendations

- ✓ All legitimate rights should be considered and recognised in land consolidation regulations. Regularization of land tenure rights should be part of the LC process.
- ✓ In voluntary land consolidations regulations should provide for instruments to include parcels of unknown owners into the LCP area, if they are essential for the implementation of the whole project.
- ✓ Other stakeholders, such as professional organizations, communities, women's organizations, environmental organizations and other should be involved in the LC process.





## **1. Introduction**

## **2. Key features of land consolidation regulation**

### **2.1 General presentation of land consolidation**

2.1.1 Notion of land consolidation and key definitions

2.1.2 Distinction from other instruments

2.1.3 Different land consolidation approaches

2.1.4 Process of land consolidation

### **2.2 Overview of land consolidation regulatory practices in Europe**

### **2.3 Integration of legal acts regulating land consolidation into existing legal framework**

2.3.1 Respect of Human rights

2.3.2 General integration into national legal framework

2.3.3 Strategic approach

2.3.4 Harmonisation with supra-national and international legal acts and recommendations



## **3. Objectives and principles of land consolidation**

### **3.1 Objectives of land consolidation**

3.1.1 Land consolidation as an instrument for agricultural development

3.1.2 Land consolidation integrated in broader local rural development

3.1.3 Land consolidation as a tool for environmental and large-scale infrastructure projects

### **3.2 Principles of land consolidation**

3.2.1 “At least as well off principle”

3.2.2 Sustainability and environmental protection

3.2.3 Participatory approach

3.2.4 Gender equality

3.2.5 Transparency



## **4. Institutions and persons involved in the land consolidation process**

### **4.1 Public institutions**

### **4.2 Sub-contracted service providers**

### **4.3 Private stakeholders**

4.3.1 Registered private owners

4.3.2 Unregistered legitimate owners

4.3.3 Heirs

4.3.4 Specific forms of ownership

4.3.5 Unknown owners

4.3.6 Other stakeholders

### **4.4 Representation of stakeholders in land consolidation projects**

4.4.1 Stakeholders' meeting

4.4.2 Elected representative bodies



## **5. Financing of land consolidation**

### **5.1 Financing sources**

5.1.1 State financing

5.1.2 Financing by project participants

5.1.3 Supra-national and international financing

### **5.2 Specificity of land consolidation budgeting**

5.2.1 Budgeting of land consolidation programme

5.2.2 Budgeting of land consolidation projects



## **6. Feasibility phase**

### **6.1 Initiation of land consolidation project**

### **6.2 Feasibility study of the land consolidation project**

### **6.3 Identification of project stakeholders**

6.3.1 Identification of right holders

6.3.2 Identification of other stakeholders

### **6.4 Definition and adjustment of project area**

6.4.1 Definition of project area

6.4.2 Temporary restrictions within project area

6.4.3 Adjustment of project area



## **7. Re-allotment phase**

### **7.1 Consultations with stakeholders**

7.1.1 Consultations with landowners

7.1.2 Consultations with other stakeholders

### **7.2 Valuation of property and rights**

7.2.1 Purpose of valuation

7.2.2 Persons responsible for valuation

7.2.3 Method of valuation

7.2.4 Valuation zones

7.2.5 Valuation of rights and added value

7.2.6 Approval of land valuation



## 7. Re-allotment phase [Continued]

### 7.3 Principles of re-allotment

7.3.1 Re-allotment of properties

7.3.2 Protection of parcel related third party rights

### 7.4 Components of land consolidation plan

### 7.5 Approval of land consolidation plan

### 7.6 Environmental impact assessment



## **8. Implementation and registration phase**

### **8.1 Cadastral surveying and registration of properties**

8.1.1 Cadastral surveying

8.1.2 Property transactions with non-participants

8.1.3 Registration of parcels

### **8.2 Financial settlements**

8.2.1 Settlement of differences between input and output properties

8.2.2 Range of over and under compensation

8.2.3 Compensations for lost harvests during the implementation of the project

8.2.4 Compensations for buildings and accessories

8.2.5 Compensations for servitudes

8.2.6 Compensation for parcels of insignificant value



## 8. Implementation and registration phase [Continued]

### **8.3 Implementation of field works (drainage, roads, public areas, etc.)**

8.3.1 Entity or person commissioning the implementation works

8.3.2 Procedure for commissioning works

8.3.3 Combination of land consolidation with infrastructure works

8.3.4 Combination of land consolidation with large infrastructure projects

8.3.5 Other aspects of implementation of works





## **9. Combining land consolidation with other instruments**

### **9.1 Land banking**

9.1.1 Land acquisition for land consolidation purposes

9.1.2 Land privatisation for land consolidation purposes

9.1.3 Pre-emption rights of a land bank

9.1.4 Facilitation of sale and lease of land

### **9.2 Other instruments**

## **10. Taxes and incentives**

### **10.1 Tax incentives**

### **10.2 Registration fees**

### **10.3 Other incentives**



## 11. Legal remedies

11.1 Administrative remedies

11.2 Judicial remedies

## 12. Monitoring and evaluation

**Annex – Land consolidation regulatory practices in Europe  
(country summaries)**



# Figures Guidance document

- 145+ pages excluding annexes
- 60 Boxes with specific examples from national law
- 5 main principles
- 27 key topic for recommendations
- 100-s detailed recommendations



**Thank you!**

