

The land administration system as a framework for the land consolidation in Estonia

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1. Introduction

The discussions about the land consolidation are not topical in Estonia at present. Some people consider most land management activities as a relict of the Soviet period. It is expected that land management is first of all the concern of the landowners and those activities do not need the intervention from others. Furthermore, such intervention is sometimes considered as a limitation of property rights and this is not acceptable.

The reasons for the underestimation of the role of different land management activities and particularly land consolidation are different. The opinion that the free (ultra-liberal) market is the best instrument for the successful development is one of those reasons. The sustainability of such a policy is not under discussion even though the need for the implementation of principles of sustainable development has been written in many documents and programmes.

The opinions and positions mentioned above are very general and do not give the answers to the several questions about the real reasons of the underestimation the role of land consolidation in Estonia at present. One of those questions is: what are the preconditions in the society for the implementation of land consolidation projects? One can ask more questions and one of them is: how are land consolidation and land administration related? Is a good land administration system one of the basic preconditions for the land consolidation? What are the connections between land management and land administration? All those questions are worth to be studied carefully and in detail.

The general questions of land administration have been discussed in many publications during the last decade. The papers of S. Enemark and P. van der Molen (2006), D. Steudler (2004) and I.P. Williamson and J. Wallace (2006) are only some examples of this kind of publications. The importance, components and functions of land administration systems have been discussed in many publications (Dale and McLaughlin 1988; Österberg 2006; Steudler 2004; UN ECE, 2001; UN ECE, 2005 etc.). The main feature of those publications is that land administration problems have been analysed in general terms as a rule. However, the place of land consolidation in the general framework of land administration needs to be investigated and analysed in the future.

The main aim of the paper is present land consolidation activities in the general framework of land administration. Firstly the essence of the land administration systems has been discussed. Then the short overview of the land administration activities in Estonia has been given. The following part of the paper will focus on the place of the land consolidation in the general framework of land policy and land administration. The Land Administration Guidelines (UN ECE 2005) are laying down a good basis for analysis of the land consolidation in the general framework of land administration.

2. On the concept of land administration system

“Land administration” as a term has been defined in many publications and in several glossaries. One of example has been presented below. Land administration is defined as “the

processes of determining, recording and disseminating information about the ownership, value and use of land when implementing land management policies.” (UN ECE 1996; UN ECE 2005). The *process* is the key word of this definition. The similar definition is given by FAO (2002) and according to it the land administration is “the set of systems and processes for making land tenure rules operational.”

Most of the glossaries of different publications on land administration issues do not give the definition of the *land administration system* as a term. The definitions of land administration, land management and land tenure have been presented in several glossaries at the same time for example. Nevertheless the topic of those publications is about the role and benefits of land administration systems in society. D. Steudler (2004: 33) notices that “Land administration systems are data and information collections, processes and tools that are the responsibility of governments.” The Bathurst Declaration (UN-FIG, 1999) emphasizes the cadastral components as the central part of the land administration systems.

It is not easy to present a short and universal definition (or explanation) of a land administration system. D. Steudler notices “...that a land administration system very much reflects the social and cultural context in which it is being operated” (2004: 150) and he further continues: “As the land administration systems are operated within distinct social and cultural contexts, they depend on many factors from within and from the outside of the system” (2004: 154). However, there is a need for the compact and easily to understand definition of the land administration system. This definition must be addressed first of all to the politicians. This definition should give the answer to the following questions at least:

- What are the components of the land administration systems?
- What are the functions of the land administration system?
- What is the role of the land administration system in society?
- Who is responsible for the maintenance of the land administration system?

The definition of the land administration system should be presented in the policy papers and not only in research papers. It will help the politicians and the public to better understand the role of the land administration in society. The land management activities (including land consolidation) can not be successful if the essence of the land administration systems will stay unclear.

3. Land administration in Estonia

As mentioned by D. Steudler (2004) “Nearly every country ... is facing reforms ... of its national land administration systems”. Several efforts have been made in Estonia to establish and to develop a modern land administration system. Some of those activities have been quite successful but not all. The institutional aspect of the Estonian land administration activities is highlighted very briefly in this part of the paper.

Four ministries, county governments and local authorities are mainly responsible for the different land related issues in Estonia at present. Those ministries are as follows:

- Ministry of the Environment (and the Estonian Land Board which is operating under the ministry);
- Ministry of Justice;
- Ministry of Agriculture;
- Ministry of Internal Affairs.

The Ministry of Environment and the Estonian Land Board particularly are responsible first of all for the following tasks:

- The maintenance of the Land Cadastre;
- Co-ordination and execution of land reform in the conformity with legislation;
- Organisation of state lands exploitation;
- Organization, supervision, and co-ordination of the land assessment activities;
- Organization and carrying-out the works in geodesy, cartography and photogrammetry;
- Development of Estonian National Land Information System (LIS).

The Estonian Land Cadastre was created at the same time when the land reform started and it is very much oriented to support the land reform at present. The registration of the parcels is based on a modern and computerized system and the cadastral information is been made available for the public. The land cadastre database is cross-referenced with several databases of other institutions and the user can retrieve the desired information in the joint environment. The weakness said of the Estonian land cadastre is that the data are not analyzed and generalized. It is very easy to receive the information about a particular parcel if it is registered in the cadastre. But it is almost impossible to get general data for some region (e.g. a municipality or village). The trends in land use and in land tenure are also not analyzed. Many land use problems have been not recognized because of the lack or weak analysis of the real land use trends. The real needs for the explicit land management tasks will be not available if the real problems of land use have been not recognised.

The registration of ownership (property) rights is a part of land administration. Estonia has a system of a strong land register (title book) and the real rights in real properties are registered in title book. It is the responsibility of the Ministry of Justice to register the ownership (property) rights and the land register is being maintained by the land registry departments of county courts.

The Ministry of Agriculture is concerned first of all the processing of agricultural products and the regulation of agricultural market. However, one of the tasks of the Ministry is to provide conditions for the sustainable and diverse development of Estonian rural areas in general. The Rural Development Department of the Ministry is responsible for the formulation and implementation of rural development policy with the objective to increase the competitiveness of the rural areas and to improve the living conditions for rural people. Most issues of the rural development are directly or indirectly related to the land administration activities. The organization of land improvement activities is one of the tasks of the Rural Development Department. The issues of land consolidation and re-adjustment are not under the discussion at present. The Rural Development Strategy 2007-2013 and the Rural Development Plan 2007-2013 was elaborated by Ministry of Agriculture in the year 2006. Both of the documents pay almost no attention to the land issues.

Regional development and spatial planning are the responsibilities of two departments of the Ministry of Internal Affairs. The system of spatial planning comprises of four levels and the types of plans are as follows:

- national spatial plan (the aim is to define the prospective development of the territory of the state in a generalised and strategic manner);
- county plan (the aim is define the prospective development of the territory of a county in a generalised manner);

- comprehensive plan (the aim is to determine the general directions in and conditions for the development of the territory of a rural municipality or city);
- detailed plan (the aim is to establish land use provisions and building provisions).

This planning system is very much oriented to the prospective development of settlements and to solve the problems of development a build up areas. However, the guidance of the regional development is also a part of land administration.

The county governments have also some duties concerning the land issues and those are first of all the following:

- Administration and supervision of planning activities at county level;
- Supervision of planning activities (including spatial planning and land readjustment) in municipalities;

The role of county governments in land administration has been first of all the supervision of the planning processes. Nevertheless, this is also a part of land administration.

The local authorities (municipalities) have also various tasks and obligations in connection to the land and land administration. Three fields of the land related activities of local authorities can be distinguished in general terms and they are as follows:

- Fulfillment of the land reform activities (the restitution of land ownership on land and the privatization of land are carried out mainly by local authorities);
- Administration of planning tasks (preparation of comprehensive plans, detailed plans and land readjustment);
- Assessment of land and taxation of land (is carried out in co-operation with other state agencies).

The tasks and responsibilities presented above are only a part of all land administration activities of different institutions in Estonia. The main feature of the Estonian land administration is that the land related tasks have been dispersed between different institutions. The co-operation between those institutions is weak and some issues have been left without necessary attention. The land consolidation is one of such examples.

4. Land administration and land consolidation

Land consolidation within the system of land administration has manifold character. It can be described and analyzed from different viewpoints and with different degree of profoundness. One of the possibilities to explain the place of land consolidation in the general system of land administration is presented in figure 1. It is a top-down approach to show the relation between land policy and land consolidation.

Land policy is the top of the pyramid. The land policy is defined as "...a combination of socio-economic and legal prescriptions that dictate how the land is to be used and how the benefits from the land are to be shared" (UN ECE 2005). Two aspects of land policy must be distinguished: (i) the declared and specified land policy statements and (ii) the actual implementation of land use decisions. The goals and principles of the land policy must clearly specify in the policy papers and programs. The actual implementation of land use decisions will be stochastic and non-systematic if the goals and principles of the land policy have been not clearly specified.

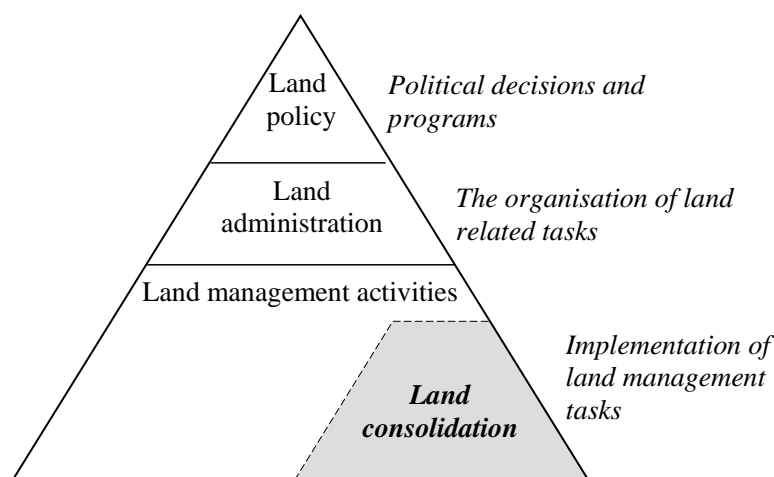


Figure 1. Land consolidation in general framework of land administration.

The task of the land administration activities is to establish the appropriated basis for land management activities and the organization of those activities. In other words: “Land administration is part of the infrastructure that supports good land management. It should be treated as a means to an end, not an end in itself” (UN ECE 2005: 21). The land administration is a link between land policy and land management. It is impossible to have good results in land management if there is a weak or missing land policy on the one hand even if the modern land administration is present. The implementation of the land policy (even a good one) can not be successful if the land administration system is not properly functioning.

The organization of land related tasks must be understood in very wide sense. It consists of the establishment of the legal environment for land management and the set of the different authorities for example. It includes the organizational procedures also. It should be mentioned also that one of the land administration task is to ensure the good balance and co-ordination of the land management activities.

Land consolidation will be always implemented in the land administration framework, whether it be a good or weak one. The success of land consolidation depends on the existence of a land policy and well functioning land administration system.

The reason for the underestimation of land consolidation in Estonia is the very weak land policy. There are no clear land policy statements and programs in Estonia at present. The Rural Development Program for the 2007-2013 does not pay attention on the land policy issues for example.

5. Concluding remarks

Land consolidation is a part of land management activities. The success of land consolidation depends on the existence of the appropriate land administration system. It means that there is a clear relationship between land policy on the one hand and land consolidation on the other hand. This relationship must be understood by the politicians and public.

The first and main precondition to establish a well-functioning land administration system is a clear land policy accepted by society. The main goals and principles of the land policy must

be clearly stated and the appropriated legislation must be present. The land policy principles should be considered as one of the corner stones for the most development plans. The rural development plans are merely an example of those types of plans.

The recognition of the need for the management of land as a scarce resource is the precondition for the development of the systematic and balanced land policy. This precondition is valid for the top level politicians first of all. It is difficult to introduce the modern land administration system if the ultra liberal ideas of free market are dominating. The underestimation of the need to deal with the land issues can lead to the accumulation of the problems in the future.

The land administration activities should be balanced. The unbalanced development of land administration components can lead to the waste and misuse of resources. The advantages of some components of land administration can not be used because of weakness of other components. The collection and recording of land information has small efficiency if the data have been not analyzed carefully and the basic trends and the patterns have been not recognized.

One of the basic features of a good land administration system is the clear determination of land management tasks and the responsibilities between different organizations and institutions. It is difficult, if not impossible to achieve the good results in land management if some the problems have been neglected.

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