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Comparative Legal Context of Land Consolidation in Georgia

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Abstract

From the time of independence to the present day, land legislation in Georgia has undergone numerous changes, evolving at its own pace. However, Georgia's aspiration to join the European Union necessitates additional modifications. This article focuses on one specific issue: land consolidation. The analysis is conducted through comparative legal and historical-toponymic research, drawing insights from similar countries such as Hungary, Slovakia, and other European states. This approach is justified by the small size of these countries, their recent history of joining the European Union, and ongoing reforms in land consolidation.

The topic's relevance and outcome orientation are highlighted, as land consolidation significantly intertwines with public and private legal interests. The article encompasses scrutiny of Georgian and foreign legislative acts, doctrinal materials, and other historical sources. Land consolidation stands out as a pivotal element in the broader context of land law and, more practically, as the primary driver for the functioning of the agricultural sector, the country's development, and its path toward European Union membership.

In essence, this article evaluates Georgia's capacity to establish an effective policy and legislative framework to regulate these relationships.

Keywords: Land Fragmentation; Agricultural Land, Land Reprivatization

Introduction

Land consolidation encompasses the redistribution of land pieces, allowing landowners to acquire more extensive patches of land in one or multiple locations in exchange for their former smaller or scattered land pieces. The term "land consolidation" traces its origins to the Latin word "commassatio" (press no. 658).

Beyond mere changes in land configuration, land consolidation has consistently been associated with broader objectives that collectively contribute to increased agricultural production. Furthermore, this process remains closely intertwined with a country's urban planning, as the efficient allocation of agricultural land in villages typically precedes planning for non-agricultural land areas, including roads and other infrastructure.

Traditionally, land consolidation has been regarded as the primary concept for land development and an optimal approach to land management. Historical perspectives on village development, closely aligned with strengthening agriculture, persist to this day. This process benefits farmers by enabling them to possess larger, strategically located land plots as part of their estates (Remba, C., 2019).

By enhancing land use and addressing issues associated with fragmented land ownership, land consolidation represents a significant stride toward agricultural development. Georgia stands to gain substantially by adopting policies that ensure the successful implementation of land consolidation, considering its vast agricultural potential. To facilitate agricultural growth and sustainability, this research addresses the legal issues of Georgian agriculture and proposes creative strategies and recommendations for land consolidation.

The article's goal is to discuss the similarities and differences between Georgia and other European countries concerning land consolidation. Drawing from various scientific literature, the goals of land consolidation in Germany, Hungary, Slovakia, the Netherlands, Finland, and Sweden are compared to those in Georgia. Through historical-toponymic and comparative legal research, the paper analyzes the relevance and long-term perspective of this process in the context of Georgia's accession to the European Union. It emphasizes that land consolidation is a prerequisite for agricultural development and equal living conditions for the population in urban and rural areas. The recommendations put forth by the research paper aim to facilitate the practical implementation of existing legal regulatory norms and the development of new, more specific regulatory norms.

Comparative legal context of the nature of the land

Property rights have a complex nature, encompassing a combination of various rights. As some English scholars have articulated, property rights

represent a relationship that denotes dependency on the possessed object between the owner and other individuals (A.M. Honore, 1961). This relationship signifies the connection between two distinct worlds, predating the foundations of law (Remba, C., 2019), adding an intriguing dimension to the acquisition of property rights. Property rights stand as one of the oldest rights in human history, sometimes referred to as "natural" rights by certain scholars (Dzamukashvili, D., 2017). The concept of property and its origins have a long history, as noted by Doctor of Juridical Science Davit Dzamukashvili, who humorously stated, "The notion of property originated when Eva and Adam covered themselves with fig leaves."

During the English Revolution, property rights were considered fundamental and were enshrined in legislation at that time. Despite being an absolute right in private law, the depths related to state interests often go unoutlined by science and legislation. Consequently, the protection of public interests, environmental values, and natural resources remains unregulated. Slovakia, in the 19th century, took decisive measures to protect land, driven by the development of sciences and the need for unprecedented means for soil harvest. This period marked the evolution of the relationship between people and land, contributing to the creation of a protected and harmonious environment at the legislative level in Slovakia and other developed countries.

The European Commission emphasizes that efficient land management in Europe relies entirely on legal regulation due to the degradable nature of land. Therefore, effective agricultural land management policies should be established. In Georgia, land is categorized, with agricultural land holding special significance due to the international approach and natural conditions. The economy and development focus of Georgia lean towards agriculture.

It becomes crucial for Georgia to address this significant issue at the constitutional level, following the latest European practice exemplified by Slovakia. The Slovak Republic's constitution declares that its land is the heritage of the state, citizens, and future generations, emphasizing that land is a non-renewable natural resource in the Earth's ecosystem. Georgia should follow suit in regulating this matter more deeply at the constitutional level, ensuring a correct policy foundation for subsequent acts.

While the management of agricultural land resources in Georgia lacks clarity regarding its effectiveness at the constitutional level, it undeniably requires more depth to serve as a sound policy determinant. Additionally, the cornerstone of Georgia's agricultural development lies in promoting farms, with the effective operation of farms being a significant means for the growth of the agricultural sector. Notably, since 2016, a substantial legal step has been taken to facilitate the advancement of agriculture.

Land Consolidation in EU and Georgia (comparative legal research)

Objectives of land consolidation

Land consolidation serves as a synthesis that seemingly unites both public and private interests, creating a harmonious balance between the economic pursuits of private landowners and the broader objectives of the state. Both doctrinal and practical materials worldwide provide a clear set of objectives for land consolidation. The paper outlines a general list in tabular form to elucidate the goals encompassed by the concept in land law:

1. Contribute to solving the problem of land fragmentation and small land areas.
2. Improve and systemize farmers' farming structure.
3. Unite investments for new infrastructural projects or rehabilitate damaged village infrastructure.
4. Develop competitive agriculture.
5. Protect natural resources and the environment in the farming area.
6. Facilitate the implementation of rural developmental program projects.
7. Create new job opportunities in rural areas.
8. Ensure global climate care.

While the objectives of land consolidation may vary from country to country based on historical tendencies, current situations, and cultural differences, there are overarching goals that are common to all nations. These common goals are presented in the table (Figure 1), emphasizing the shared aspects of land consolidation across diverse cultures and legal frameworks (Macaj, L., 2022).

In Georgia, land consolidation should similarly be grounded in the synthesis of public and private interests. In a broader sense, it enables the effective use of land, addresses land fragmentation, and enhances agricultural productivity. The consolidation of land pieces facilitates the implementation of modern farming techniques, irrigation systems, and infrastructure, ultimately improving food production, rural development, and economic prosperity. Simultaneously, it streamlines land administration and provides a long-term guarantee, positively impacting the environment.

In essence, the necessity for a balance between public and private interests becomes evident through land consolidation, aligning the interests of landowners, the general public, and the state. The adoption of land consolidation practices in Georgia holds the potential to create better conditions for the intended use of agricultural land, contributing to sustainable development and overall societal well-being (Filagova, L., 2022).

Land fragmentation and its rationality in Georgia

It is widely known that Georgia gained its independence in the 1990s, marking the establishment of an independent legislative order and significant changes to existing laws, including land laws. Under the regulations in the Soviet Union, no citizen of Georgia had the right to own land (Demetriou, D., 2014). However, the process of "privatization" of agricultural land was initiated to register previously state-owned land for private use, aiming to utilize agricultural land more efficiently. This transformation altered the landscape of distribution, possession, and realization of property rights objects.

The objective of the Georgian government during that period was to dismantle the socialist system entirely and transition to a capitalist system. The socialist model, which restricted private ownership of agricultural land, proved inadequate in meeting the challenges and human needs arising from development. Consequently, land distribution emerged as a problematic and urgent issue following the collapse of the socialist system. Unfortunately, the prevalence of corruption and bureaucratic inefficiencies in the 1990s had a detrimental impact, leading to the irrational distribution of agricultural land.

During this period, a former employee of Soviet farming in Georgia, for instance, might have received a 1.25-hectare patch of land. However, in a specific geographical unit, the allocated area could vary significantly, ranging from 0.75 hectares to 0.25 hectares. Compounding the issue, the allocated land often came in fragments, scattered across 4-5 plots, with one intended for homesteading.

The challenges faced by Georgia were not unique; other countries with a shared Soviet past encountered similar issues upon transitioning away from socialist regimes. The absence of private property had led to challenges in rational and fair land distribution. Unfortunately, the planned distribution did not yield the desired results. For instance, in Georgia, the irrational distribution of land hampers agricultural land development. A significant portion of the population, around 77%, owns less than 1 hectare of land (Law of Georgia "On Rights to Immovable Property"), which raises concerns about the optimal utilization of agricultural land.

International experience

There is a notable similarity in the historical development of land law, land consolidation, and the reasons for land fragmentation between Hungary, Slovakia, and Georgia. This article explores the experiences of Hungary and Slovakia as newly joined members of the European Union, drawing parallels with Georgia, which shares a small land area.

In the 1990s, Hungary underwent a political system change, leading to the collapse of socialist cooperatives. Compensations were issued to employees, and a re-privatization policy began. As a result, 8% of the

population in Hungary obtained agricultural land plots in private ownership. However, the subsequent distribution of farming land among 1.8 million people resulted in 2.6 million land fragments. This fragmentation posed challenges as many landowners possessed plots that could not be utilized for their intended purpose, diverging from the practices of European Union member states. To address this issue, Hungary, like Slovakia, had to adopt a legal act, exemplified by the Slovak authorities' 1994 issuance of "Unification of land on the basis of free will" as a potential solution (Mikaberidze, R., 2015).

These processes are noteworthy for Georgia, as land consolidation has historically received attention not only in Hungary and Slovakia but also in more stably developed countries like France. Ludovit Machai, a professor at Bratislava Jan Komenski State University, highlighted the history of land arrangement in the French Republic based on Roman experience, which served as an example in Slovak reforms. France's history of land development and distribution dates back to ancient Rome, with a focus on proper management and rational distribution of territories. France has a rich experience with land consolidation, evident in the legal regulations from 1955-1975 and the goals outlined in the Agricultural Code adopted in 1982 (Van Dijk, T., 2004).

Slovakia and Hungary's adoption of land consolidation was a requirement for their accession to the European Union in 2004, prompting necessary reforms for agricultural development. The transfer of land during privatization necessitated changes in configuration, emphasizing the need for adjustments, exchanges, or relocations to facilitate efficient agricultural sector development.

Complex land systemization and consolidation serve as a guarantee for agricultural development, environmental protection, forestry, landscape protection, and urban planning. Georgia, given its past history and land scarcity, shares a close connection with the experiences of the reviewed countries.

A significant goal of the European Union policy is to reduce the disparity in living standards between urban and rural areas. Land consolidation is prioritized as a subject of support from the European Union for member states and those aspiring to join (A.M. Honore, 1961)

Perspectives of the alternative land consolidation model in Georgia

There is a lack of clear records regarding land consolidation in Georgian legislation. While ownership rights can be registered based on the unification of immovable property, including buildings and structures, the current legal framework does not adequately address the broader and more significant process of land consolidation. Although the Law of Georgia "On Ownership of Agricultural Land" aims to prevent fragmentation and irrational land use, it falls short of establishing a comprehensive legal framework for land consolidation.

The existing legislation appears to be inactive and insufficient in practice, as a mere legislative act is not enough to drive the consolidation process. Successful land consolidation requires the right policies, enforcement mechanisms, and modern technologies, which are employed by developed countries.

A proposed alternative model involves encouraging small landowners to voluntarily exchange their land, drawing inspiration from the legal models of Germany and France, as implemented in Hungary and Slovakia. These countries have shown that mutually beneficial deals between private owners can significantly improve the agricultural situation. Additionally, promoting the development of cooperatives is essential, granting these organizations the freedom to jointly manage consolidated land areas. Cooperatives enhance the efficiency and profitability of farming enterprises through the shared use of resources.

The state should play a role in ensuring the technical efficiency of such associations by providing remote software and establishing a registry-like body to regulate relations on consolidated lands. Moreover, the creation of a unified farm management system is necessary, leveraging technological advances to improve productivity and resource management. An inactive legislative act, without appropriate mechanisms, cannot ensure the proper functioning of land consolidation.

In summary, land consolidation is vital for unifying public and private interests, ensuring their peaceful coexistence. It is the state's responsibility to protect stakeholders from risks arising from such relationships and to facilitate the implementation of effective land consolidation practices.

Conclusion

The configuration of agricultural land plots in Georgia poses challenges, leading to disruptions in farming and the violation of legal private interests of landowners. This situation not only hampers private owners' ability to use their land for its intended purpose but also damages public interests.

To address these issues, a recommended solution is to create separate regulatory norms specifically focused on the regulation of land consolidation

and related relations. This proposal is aligned with the findings of the covered comparative legal study and historical-toponymic review.

Additionally, it is imperative to establish an administrative body tasked with ensuring the proper functioning of the cooperatives that have been created through the appropriate register. These cooperatives can significantly improve the standards of living for farmers in rural areas, generate employment opportunities, and encourage individuals interested in farming. Ultimately, this can lead to increased revenue for the state.

Land consolidation in Georgia is a crucial process aimed at improving the efficiency, productivity, and sustainability of agricultural land. Farmers stand to benefit by enhancing their resources through this opportunity. Uniting fragmented land plots into larger, more cohesive units is essential for addressing existing problems. In the context of Georgia's sustainable development, future European Union membership aspirations, and the promotion of agriculture and investment in farming, land consolidation activities play a vital role.

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