

Farmland Merging in Poland—A Success or Failure in Land Management Policy

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Abstract: Farmland merging is a significant tool in comprehensive rural areas development. Although a broad range of research relating to this field already exists, not enough emphasis has yet been placed on this issue in Poland. In all probability it would not be a point for broad discussion if this situation related to a country, where agriculture is negligible. Nonetheless, in Poland agriculture plays a very important role in the economy: it employs 17% of labour force and arable land covers about 60% of the total area. Yet, even where land consolidation work has been carried out for years, the expected effects are still not appreciable, mostly because of the disastrous formal and legal policy. This paper intends to make a contribution to the field of knowledge of farmland merging in Poland. Particular attention was focused on the importance of land management policy in the streamlining of land consolidation activities. The study brings a fresh view on the examination of the effectiveness of farmland merging work, based on two different formal procedures carried out in Poland. During the investigation the main obstacles and weaknesses in legal regulation were revealed while at the same time, producing possible solutions.

Key words: Land fragmentation, farmland merging, land management policy, Poland.

1. Introduction

The phenomena of farmland fragmentation relates to smaller farm-holdings or a situation where a single farm consists of numerous spatially separated parcels [1, 2]. Dijk [3] proposes the following meaning for land fragmentation: (1) ownership fragmentation, where the ownership of agricultural land is split between many owners and additionally consists of small and often badly shaped parcels; (2) land use fragmentation, referring to varied use of the land, and (3) internal fragmentation, understood as the fragmentation of farmland within a farm. According to King and Barton [1], at the farm level, land fragmentation relates to two meanings: the division of a farm into undersized parcels irrational for exploitation, and the division of a farm into many

non-contiguous parcels spread in the rural space.

In Polish literature land fragmentation is known as patchwork fields and is characterized by: the size of a field, number of parcels in an individual farm, acreage of a parcel, and also, distance between the farm and the parcels scattered among various parts of landownership. The average values for the above characteristics are the following: 8 hectares, 8 pieces, 0.6 hectare, 1-2 kilometers, respectively [4].

It shows that from an economic point of view, farmland merger in Poland is unfavourable, however, these statistics vary from region to region. The most fragmented agrarian structures can be found in south-eastern Poland, while the most favourable are in the northern and western fringes of the country. To explain this, it can be said that two of the most important historical and political transitions overlapped with socio-economic circumstances [5]. One of them was the period of national independence loss, between 1775-1918, when, being under three

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partitioning powers, different rules of agricultural policy were practiced. The second was the period of socialism, between 1945-1989, when common country nationalization was implemented.

Contemporary performing farmland merging works leads to a comprehensive renewal of rural areas, because simultaneously with farmland grouping and swapping, other activities are carrying out, whose roles include the shaping of a new landscape quality and its protection. It refers to the implementation of inter alia, water management system, balks and pathways network, landscape elements preventing erosion and the renewal of roads infrastructure. For this reason land consolidation should be a very useful tool in the integrated development of rural areas [6, 7], where improving the environment and quality of life in the countryside are expected to be achieved [8]. Additionally, land consolidation is an appropriate instrument for the implementation of non-production functions within rural areas, what stands very close to the idea of multifunctional development of rural areas.

Taking into account the above facts, farmland merging should be an important aspect of rural areas management process, improving agricultural efficiency and creating a new look for old-fashioned rural areas. Though, considering the profound effects of land consolidation, it seems to be puzzling that farmland merging is implemented only occasionally in Poland, a country, where agriculture plays a very important role in the economy: It employs 17% of the labour force and arable land covers about 60% of the total area. Contrarily, a descending role of farmland merging is being observed, and this is proven by the decreasing share of land consolidation work since the Second World War, from about 300 thousand hectares annually to 15 thousand hectares per year nowadays [4]. It is also worth noting that, together with Polish accession to the European Union, an improvement in defective agrarian structure was expected. However, despite the fact that significant financing subsidies for farmland merging have been provided, only a minor

improvement in the agrarian structure can be observed. It seems that no other restructuring of Polish farming causes as much controversy as farmland merging [9].

The focus of this paper was laid on the issue of farmland merging in Poland. Particular attention relates to the aspect of the formal and legal policies, where an attempt was made to answer the question: in which scope does the existing legislation not create good conditions for farmland merging?

2. Farmland Merging in Polish Legislation—A Brief Overview of the Topic

In Poland, land merging and exchanging work have a long tradition, with roots reaching back to the Middle Ages. However, at that time, only ecclesiastical land properties were merged. After surrendering independence, in the years 1795-1918 re-parceling works with varying success were carried out in all partitions. In the Prussian partition, in 1872 a consolidation law was passed and the merging of common land was linked with peasants' enfranchisement. As a result, individual farms of landlords covered more than 100 hectares and accounted for more than a half of the total Prussian partition. On the other hand, one third of farmland was in the possession of peasants, who after enfranchisement, were given small farms. In the Russian part, after 1875, when the rules on the compulsory separation of manor estates and peasants' lands had been implemented, merging activities were accelerated. Nevertheless, the ratio of manor estates to peasants' land equalled 1 : 1, and bearing in mind the fact that the peasant had, on average, 6.5 hectares of farmland, land fragmentation was really significant here. In contrast, in the Austrian partition, legislation was very intricate, complicated and time-consuming, and thus work undertaken in 1903, when the law on land consolidation was implemented, was never completed. Also, here the patchwork fields concept was in its worst condition: small granges and lots of tiny peasants farms, not exceeding 5 hectares [10].

After regaining independence, there was a need to establish a new uniform consolidation law that also would be useful in rural areas modernization. To fulfill that assumption, the Act on Land Consolidation was passed in 1923 [11].

In the early post-war period land consolidation work was carried out according to two decrees, passed in 1948 and 1949, whose roles were to adjust farming to the new political situation and common state nationalisation. In 1968, the new Act on Land Consolidation and Exchange came into force [12], its purpose was to create an appropriate condition for production intensification in state and collective farms. Eventually, that law was repealed by the Act of 26 March 1982 on Land Consolidation and Exchange [8].

As for the effectiveness of land consolidation work, in the post-war period, several re-parcelling stages can be distinguished. Between 1945 and 1967 farmland merging work covered 560 thousand hectares of agricultural land. Until 1980, increased activity was observed—3,676,000 hectares of land were merged. After that, in the years 1981-1988, consolidated activities decreased evidently, and during that period only 444,000 hectares of land were merged. Further, through the economic transformation, between 1989-1998, the steadily decline in land consolidation was still evident, as only 228,000 hectares of farmland were merged.

3. Legislation and Policy Relating to the Merging of Farmland

3.1 Weaknesses in Legal Policy

In relation to legal grounds, farmland merging is regulated by inter alia, the Act on Land Consolidation and Exchange [8] as well as the Instruction on Land Consolidation [13]. In addition, land consolidation is carried out in pursuance of spatial planning principles, as specified in the Act on Spatial Planning and Development [14]. In turn, the responsibilities of administrative bodies involved in the land consolidation process are regulated by the Act on

Local Government [15] and the Act on Province Government [16].

A comprehensive analysis of the above mentioned body of rules revealed that several of the legal permissions operate against effective land merging.

First of all, the competences of public administration are divided between various tiers; some of the responsibilities of land consolidation are under local authorities [15], others are under regional ones [16]. That leads to procedural difficulties, which is proven by the following examples.

The starost (the head of the district government), at landowners' formal request, issues a positive opinion on farmland re-parceling and simultaneously prepares a decision on the initiation of the land consolidation process. After that, the land consolidation project is elaborated. However, this is the surveyor-designer (from the marshal's office) who is responsible for this. But, despite the fact that the project is drafted by the surveyor-designer, it is the starost who is entrusted to approve the document.

A similar situation relates to budget management, which is completely under the marshal's authorities control [16], because local government has no power in this area.

It needs to be pointed out that before public administration reform in 1998 [17], the Vojt (the head of the commune government), was fully authorized to conduct the farmland merging procedures. After the alteration, the starost (the head of the district government) and the marshal (the head of the province government) share these duties. However, the disregard for commune authorities seems to be incomprehensible, bearing in mind the fact that commune officials are responsible for local planning and development, where land consolidation is an important aspect of land management.

Another formal hindrance is the separation of merging-exchanging work from post-re-parceling development that is also conducted by two different authorities. The land consolidation project, concerning

land parcels consolidation and relocation, is fully completed by the geodesy department (the province government). In contrast, post-consolidation development, such as road construction, drainage ditch implementation, etc., is under the starost's supervision, who selects a contractor during the tendering procedure. The problem occurs, for example, when merging-exchanging activity is prolonged, which then makes it impossible to initiate post-consolidation works on schedule.

The discrepancy in the administrative competences explained above not only has a detrimental effect on legal trial, but also makes civil servants less involved in the farmland merging procedures.

Another issue is the overly powerful role of the land consolidation committee that mostly consists of landowners. The committee is entitled to comment endlessly on the draft version of a land consolidation project. Moreover, the starost's decision can be undermined at any time. Not to mention the ease with which it is possible to start the prosecution of procedures or decisions to the administrative court. Before 1982 these activities were limited, for instance, according to the Act of 1923, land consolidation authority had the permission to intervene when the merging committee acted in a harmful manner. In such a case it was possible to dismiss all members and to appoint new ones, collected from officials not farmers. Nowadays it is impossible, even if the advisory group exceeds its power.

The dominant role of landowners in the decision-making process can be the subject of much controversy. Even if this provision is giving by law [8], it leads to some adverse consequences, such as prolonging the procedures. However, the latest amendment of the Act, from 2013, enforced a restriction: If the data, on which the decision of final approval of land consolidation project, is longer than 5 years, renewal of cancellation become a subject of limitation (art. 33 par. 2). This creates a chance to speed up the farmland merging process, but still does

not fix other problems.

Very often, it happens that a farmland merging procedure can be interrupted. Reasons for this are unreasonable quarrels between neighbors about alleged improper estimation of land value or dissatisfaction with the conferment of new farmland. This kind of situation is especially complicated when some of re-parcelling work has been already launched. Surprisingly, the provisions of the Act allow for temporary suspension or even abandonment of the merging activity at the request of only one landowner, regardless of the progress of the work, additionally, that person is not fined for any investments already executed. In comparison, the Act of 1923 imposed the following limitation: interruption of any ongoing land consolidation processes was only possible if the application was submitted of two-third of the participants, and only the persons responsible for the procedure deferment would bear the cost of any previously done work.

Also surprising is the fact that farmers do not bear any of the costs of any merging-exchanging works [8]. This provision seems to be highly controversial and debatable, because the farmland belongs to private owners. Furthermore, it should be emphasised that both the earlier Acts, of 1923 and 1968, imposed an obligation on all farmers to participate in costs proportionally to the area held under consolidation.

Finally, according to the Act, land consolidation is initiated on the request of landowners, however, the investigation revealed that landowners have only a little awareness of that fact, which again goes to show that formal processes do not constitute good grounds encouraging to farmland consolidation.

3.2 Strengths of Legal Policy

Above, the most important legislative impediments occurring in the conventional methodology of the farmland merging process have been listed. However, there is an alternative, more efficient method of land consolidation, as conducted in the Lower Silesia

province. Although the fundamental stages of the procedure: petition, planning, decision-making and implementation are based on the guidelines of the Act of Land Consolidation and Exchange [8], the process is preceded by detailed analysis of the land consolidation demand. Provisions of the Act on Local Government [15] and the Act on the Geodesic and Cartographic Law [18] are used for this purpose. The first one allows the elaboration of local economic programs (such as: agrarian-arranging plans of communes and agrarian-arranging projects of villages), whilst the latter, gives the authority to fulfill that task to the geodesy department (the province government).

Following the Lower Silesia Province experience, the preliminary multistage phase resulted in the elaboration of: the analysis of demand for land consolidation work in communes, the study of demand for land consolidation work in the province as well as the database of areas selected for land consolidation. However, the most important thing was the analysis, because the role of that elaboration was to create the appropriate conditions for information flow between all the administrative bodies involved in the farmland merging process.

For elaboration of the analysis, agrarian-arranging plans of communes have been used. These documents contain a wide range of data concerning information relating to the agrarian structure, farmers' approvals of land merging, and other aspects of the rural areas. The guidelines of the plans constitute directives on the drafting agrarian-arranging projects of villages and have a great practical importance in the submission of applications for financial support [19].

To qualify urgent merging work, areas had to fulfill the following criteria; they had to have rich soil quality, be a relatively large farm size, be characterized by the highest land fragmentation with farmland considerably outlying from farmsteads and with a high number of mid-field roads hampering cultivation. It was also important to define whether defective agrarian structure appear only in a few

villages or whether this problem relates to a significant area of the commune, where only the latter have been chosen for land consolidation work. Furthermore, the priority for land consolidation was given to regions with intensive farming, which helped to eliminate any potential consolidation work being conducted in areas where other functions, such as touristic or industrial, play leading roles.

4. Results

In light of the above findings it can be said that there is a significant failure in the land management policy in relation to farmland merging in Poland. Especially over the past thirty years, since 1982, when the amendment of the Act on Land Consolidation and Exchange made formal proceedings very tolerant, a stagnation in farmland merging works has been observed. This situation has not been changed, even when the latest alteration of the Act was passed in 2013, even though many experts suggested a modification of the legal rules.

The results of similar research [9] show that in Poland farmland merging as a tool for the management and development of rural areas, is still neglect. This is contrary to most Western European countries where land consolidation is an integrated part of the wider rural development context, linked with land use and planning process, environmental protection programmes and also national rural development programmes [20-22].

Another aspect is the defragmentation of merged farmland that can be easily parcelled out, almost immediately after completion of land-merging activities. As Woch [23] points out, the rate of defragmentation exceeds the rate of land consolidation. The true here is that there is no legal prohibition on land defragmentation for inheritance or sale purposes, but even if legal restrictions were implemented, enforcing these rules is virtually impossible, because this injunction disagrees with the basic rights of landowners to dispose of their own land according to

their wishes.

Instead of that, some more constructive suggestions should be taken into consideration. One of them is the imposition of high tax on inherited land, suggested among others by Manjunathaa et al. [24], which may discourage farmers from land subdivision. Another one is the participation of landowners in land consolidation costs, which is common practice in the limitation of land defragmentation in Western European countries, for example Ref. [25]. One more could be the establishment of a minimum size of parcel division [26].

In addition, more attention should be paid to an alternative procedure of land consolidation. The non-statutory option of farmland merging does not affect the number of implemented projects, because it depends on the funds allocated for this purpose, yet improves the procedures and the effectiveness of land consolidation work. For this reason, administrative bodies should be legally obligated to prepare the demand for land consolidation; the existing legislation only authorizes that option.

Another issue is profound change of the Act on Land Consolidation and Exchange, to make it better adjusted to the current situation in agriculture, and its importance in the economy and social life, but above all, for simplifying the merging procedures. Furthermore, the provisions of the Act should be linked with other legal documents referring to comprehensive rural development.

A similar situation applies to the post-merging development that should be an indissoluble element of re-parcelling works.

It is also important to create a model of competence concerning the administrative bodies involved in merging process.

5. Conclusion

Interesting is the fact that, even if attempts to do away with land fragmentation have been made regularly, the problem with patchwork fields still

exists. However, one should be add that the phenomenon of fragmented agriculture structure is mostly due to the presence of self-sufficient family farms, usually not oriented to market destination. On the other hand, agricultural outputs allows the possibility of putting Polish farming in one of the leading places in the European market. The conclusion can be drawn that the number of large market-oriented holdings is just adequate to provide food security and when land fragmentation concerns small hobby-farms, which it is not a serious problem.

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