



# Land reform, land fragmentation and perspectives for future land consolidation in Estonia



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## ABSTRACT

Land fragmentation has been shown to limit agricultural production and more broadly rural development in many countries across the world. In the Central and Eastern European countries that gained independence during the early 1990s, land fragmentation has often occurred as a side-effect of land reforms aimed at restoring land ownership to the pre-WWII situation. This article provides an overview of the Estonian approach to land reform, an analysis of how this has led to more fragmented land tenure compared to 1940 and a discussion of the prospects for land consolidation in Estonia. The analysis was based on archival records, legal acts, and a comparison of two study areas using a GIS. In both study areas, post-1990 land reform had led to: (i) an increase in the number of land plots; (ii) a reduction in the average area of land plots. Most Western European and some Central and Eastern European countries have long traditions of land consolidation with the main objective being reducing the disadvantages caused by land fragmentation. In Estonia land consolidation projects were implemented after independence in 1919 and again during the 1990s. Unfortunately this activity has stopped and land consolidation tools have not been developed further. To develop a modern land consolidation tool, political will is required, as is the awareness of politicians, government institutions, land owners and land users and there is a need to amend the existing legal framework to make it fit for purpose.

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## 1. Introduction

The concept of land reform can vary depending on region and state. Authors (Adams, 1995; Adams, 2000; Sikor and Müller, 2009) have presented concepts of land reform carried out at various times in various places. These articles also point out that post-totalitarian states have engaged in their own style of land reform and land reform has a mixture of objectives.

Central and Eastern European Countries, including Estonia, have faced remarkable socioeconomic changes since obtaining independence in the early 1990s (Unwin, 1997; Csaki and Lerman, 2000; Giovarelli and Bledsoe, 2001; van Dijk, 2003, 2007; Hartvigsen, 2013, 2014). There was a relatively fast transition to a market economy in most of the countries in the region. One important priority was carrying out land reform.

Property and land started to return to private ownership during the 1990s in most Central and Eastern European countries. Some researchers (Sabates-Wheeler, 2002; van Dijk, 2003; Hartvigsen, 2014, 2015) have indicated that land fragmentation in these countries was a side-effect of land reforms aimed at restoring the tenure

situation of the 1940s. Estonia decided that land expropriated during the collectivization process was to be returned to the former owners or their legal successors. Those who had become the owner of the building during the Soviet era are protected by law and have the right to privatise the land. In this paper I will argue that the land reform implemented in Estonia has led to increased land tenure fragmentation compared to 1940. It is the first and most in-depth study in Estonia. Other studies have compared the land tenure situation in the 1980s with the present day, but not with land tenure as it far back as 1940.

Fragmented land tenure often results in negative impacts upon land use, for example additional production costs to farmers, land abandonment. Even the market for land is depressed when land plots are very small and highly fragmented (FAO, 2004). Counterintuitively land concentration may result from fragmented land tenure. For example, land reform implementation in Central and Eastern Europe has encouraged the creation of large farms (Swinnen, 2009) despite one of the aims of land reform begin to go from large collective farms to a European family farms model.

In general, four main factors trigger fragmentation of land tenure: (i) inheritance; (ii) population growth; (iii) land markets; (iv) historical/cultural perspectives (Bentley, 1987). However, other situation specific factors can also play a part. In Central and Eastern European countries the factors that have driven the land

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fragmentation process include the different activities employed to implement land reform, for example restitution, privatisation and state agricultural land re-distribution—either in terms of land shares or physical parcels to the rural population (van Dijk, 2003; Swinnen, 2009; Hartvigsen, 2014).

Land tenure fragmentation has been an issue for all capitalist, free market-oriented countries since the nineteenth century (Thomas, 2006). According to Alexander (2014): “Land and property are not ‘normal’ market goods, because they do not share the defining characteristics of the goods and services that are the objects of competitive market transactions.”, i.e. land issues need intervention from the state.

Land consolidation has been an important instrument of rural development for more than a century throughout Europe (FAO, 2004; Vitikainen, 2004; van Dijk, 2007; Hartvigsen, 2015). For example, land consolidation can be used to increase the competitiveness of agriculture and forestry by increasing farm sizes. Land consolidation also helps the organisation of environmental management and melioration, and can improve access to the plot. Some countries use land consolidation as a measure to encourage rural development.

Several authors have discussed issues related to the implementation of land reform in Estonia since 1991. Some have focused on how land reform has affected agriculture (Unwin, 1997; Meyers and Kauzlauskienė, 1998; Alanen, 1999), while others have written on subjects related to the restitution and privatisation of forest (Hans and Stjernström, 2008; Urbel-Piirsalu and Bäcklund, 2009; Jørgensen et al., 2010; Grubbström, 2011). There are some studies on restitution in former Swedish settlement areas (Hedin, 2005; Grubbström, 2011). The question why some municipalities were quicker than others in terms of implementing land reform has also been investigated (Jürgenson and Maasikamäe, 2009; Jürgenson et al., 2010; Jürgenson et al., 2011), as has the typology of property formation as a result of land reform presented (Maasikamäe and Jürgenson, 2014).

Hartvigsen (2014) presented an overview of land reform approaches and fragmentation issues in a Central and Eastern European context (for 25 countries), focusing on the causality between the chosen land reform approach and the resulting land fragmentation. However, a detailed country based investigation of the coherence between the chosen land reform approach and land fragmentation is currently lacking (Hartvigsen, 2013). This present study is the first to compare land tenure fragmentation before 1940 and after last land reform (since 1991).

The main purpose of this article is to give an overview of Estonia's approach to land reform and how land reform implementation has led to a more fragmented land tenure situation than in 1940. I analysed the land reform implementation approach used in Estonia based on documentation, legal acts and my own empirical knowledge of this issue. I present the results of a comparison study of two areas based on the number of land plots and their average size in 1940 and during the current land reform.

The article is organised as follows: first, a historical overview of land reforms in Estonia is presented; second, the present land reform approach is introduced; third, the research methodology applied in the investigation of the study areas is explained and the results given; fourth, a discussion on the outcomes of land reform and the possibilities to use land consolidation as a tool for diminishing land tenure fragmentation in Estonia is presented; fifth I provide my conclusions.

## 2. Historical overview of land reforms in Estonia

The historical development of Estonia has affected land tenure. Estonia has had a number of land reforms over the centuries

(Lapping, 1993; Hedin, 2005; Hans and Stjernström, 2008; Maandi, 2009; Jørgensen et al., 2010; Maandi, 2010; Grubbström, 2011). The essence of previous land reform carried out from 1919 to 1926 was expropriation of large households (manors) to the state. The expropriated land formed the state reserve, which was divided up to form new farms that were distributed to the rural population to use. (Virma, 2004; Paavle, 2010) Since 1925 land users had the possible to buy this land from the state (Virma, 2004).

It was generally understood after the 1919–1926 land reform that land plots were scattered and did not meet the conditions necessary for effective agricultural production (Pool, 1926; Spuul, 1935). The next step was to conduct land consolidation. The Land Consolidation Act was first adopted in Estonia in 1926 and later amended in 1937. According to these acts 23,741 farms with a total area of 475,595 ha were consolidated between 1926 and 1940 (Virma, 2004). Unfortunately a lot of land remained outside of the land consolidation process and after re-parcelling the average size of land unit was still only 20 ha-with an average of 2.4 parcels per farm (Virma, 2004). The Soviet annexation in 1940 resulted in the nationalization of all private land (Virma, 2004; Paavle, 2010).

## 3. Current land reform approach

After gaining independence in 1991, a decision was taken in Estonia to carry out property and land reform. Before an adoption of a land reform act was considered, there were serious discussions over the possible approaches to land reform. It was suggested that land should be privatised to the local residents who had become building owners during the Soviet time, and returned only the persons eligible for restitution, who were local residents. However, some people were of the opinion that land should be returned to its former owners through restitution and no privatisation should take place. Discussions were based on several arguments. One of the concerns was how to ensure the sustainability of agriculture. Following these disputes, it was decided to carry out land reform in such a way that both the pre-1940 land owners and building owners from Soviet times were favoured. If the previous owner could not get the land back by restitution because a property had subsequently been built on it, the previous owner had a right to compensation (EAAa, 2016; EAAb, 2016). This means that Estonia chose a complex approach of land reform (Hänni, 1995; Ulas, 2010; Jürgenson et al., 2011) trying to solve all related matters at once.

The Land Reform Act was passed in 1991. It was the beginning of the transition from centrally planned economy to a market economy in Estonia. Pre-1991 all land belonged to the state real properties and private ownership were established through land reform activities (Fig. 1). Land was redistributed in four ways: (i) given back to its former owners (restitution); (ii) privatised (privatisation); (iii) given to municipality ownership; (iv) retained in state ownership. Privatisation took place through the sale of land to Estonian citizens and Estonian legal person in private law. Privatisation was divided into subclasses: (i) privatisation by the right of pre-emption; (ii) privatisation through auction (closed or public); (iii) privatisation of vacant forest or agricultural land.

In order to carry out land reform, every plot passed through one of the four activities of land reform. These reform activities can take place simultaneously.

Procedures are different for each activity, but property formation always takes place that can be theoretically divided into the following stages: land plot adjudication; mapping; registration (van der Molen, 2002). Adjudication is the process whereby all existing rights to a particular parcel of land are authoritatively determined (Lawrance, 1985). The adjudication process can be systematic or sporadic (Larsson, 1991). As land reform in Estonia was implemented plot by plot and not by region, implementation of

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