

# **Land Restitution and Compensation Procedures in Central Eastern Europe.**

**András Oskó  
Hungary**

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## **Introduction**

In all countries all over the world land reforms have been a key part of the general agrarian reforms and always a top priority political issue.

Back to the XX th. century history there were several land reform world wide especially after the World War I and World War II but due to dramatic political and economic changes in Central Eastern European Countries, the increasing needs for land by poors, landless rural population in Africa, South- Central America, Asia and demands for land by indigenous population in the former colonies, land reform procedures have been accelerated in CEECs after 1990 and there is a very strong political pressure and economic needs for land reforms in the developing world as well.

It could be several political and economic reasons of needs of land reforms and of course the reasons are very different in different continents regions even in countries.

Some of the reasons:

- social inequality
- increasing number of rural population
- historical justice
- political justice

But not only the reasons differ among regions and countries but also land reform procedures, depending on the historical background concerning the previous economic and political system, the former ownership status and the current legal and institutional framework, land administration infrastructure.

## **LAND REFORMS IN THE CENTRAL EASTERN EUROPEAN COUNTRIES**

At the beginning of 90s. there was dramatic political and economic changes in the socialist Central Eastern European Countries and in the Soviet States. The one party political system and command economy have been replaced by the multiparty democracy and market economy. Of course these countries are still in transition but there have been significant progress especially in European Union candidate countries.

## **Historical background**

The Central and Eastern European Countries in the former communist block had a very different historical, political, economic background, various ownership status, legal and institutional framework, land administration infrastructure, which defined the land policy and also privatisation procedures in the region.

The political and economic situation before the World War II in the former communist countries :

1, There was political democracy and market economy in Czechoslovakia, Poland, Hungary, Baltic states

2, Semi feudal countries  
Rumania, Bulgaria, former Yugoslav states

3, Communist dictatorship  
majority of former Soviet states

The ownership situation before the World War II. :

1, Private ownership was dominant in  
Czechoslovakia, Poland, Hungary, Baltic states, Rumania, Yugoslavia, Bulgaria

2, 100 % of state, co-operative ownership  
majority of former Soviet states

The legal, institutional framework, land administration infrastructure before the World War II and during the communist era :

1, Traditional legal registry and cadastre, functioning system during the communist era  
Hungary, partly Czechoslovakia, Poland and Yugoslav states

2, There was some legal registry and cadastre but not operational during communist era  
Rumania, Baltic countries, Bulgaria

3, There was no any legal registry or cadastre  
majority of Soviet states

## **Common past- the communist era**

The communist era begun in Russia in 1917 and gradually expanded and formed the Federation of Soviet States. The three Baltic countries were finally occupied at the beginning of the Second World War. After the War the majority of Central Eastern European Countries was occupied and politically influenced by the Sovietunion which resulted one party political dictatorships and command economies.

The extensive collectivisation of agric land started in 1928 in the former Sovietunion and around 1947-48 in CEECs and the Baltic states. In some countries because of political reasons, and to promote the so called advantages of the socialist system, before the

widespread collectivisation started, there was a land distribution procedure for the landless rural population.

During the socialist period there were two types of collectivisation process. The first was the full nationalisation, expropriation (large estates, farms) of agricultural lands and properties for establishing large state farms, the second type of collectivisation was to form large scale of co-operatives. This process was not a voluntary action, generally the state forced farmers to become the member of co-operatives. In co-operatives the owner of the land was not expropriated but his/her land became part of a large land use complex. Of course legal boundaries of individual parcels disappeared on spot and land consolidation was implemented and the result was registered in the land registry. There was also a list of names of co-operative members in the land registry and this list included the area, sometimes the value of their collectivised land.

The collectivisation procedures have been carried out by strong political pressure and systematic way and by 1989 in most of Central Eastern European countries the state and co-operatives became the major owners and occupiers of land. There was one exception country, in Poland the majority of agricultural land remained in private hands.

### **Compensation- restitution procedures**

As we recognised, in Central Eastern European countries and the former Soviet states there was a very wide range of variety concerning political and economic background, ownership structure and different conditions of land administration infrastructure which is the most important tool for implementing of land reforms and privatisation processes.

In respect of above at the beginning of 90s when countries have started land reform processes, they faced different problems to be solved.

In any country, one of the pre conditions of implementing land reforms, land privatisation procedures, is the existing legal and institutional framework, functioning land administration sector, especially land registry and cadastre. It's essential of registering and mapping the result of land privatisation processes. The land registry sector is a key component of a market economy whereby the safe and secure transfer of title- resulted by the privatisation- can be freely conveyed in Central Eastern European countries as in many developed countries.

Governments, states must play a very important role to establish, reengineering or modernising land administration infrastructure. The way of implementation of land reforms and privatisation processes, to fulfil requirements by the society, have been very different in CEECs and former Soviet states, depended on their historical inheritance and current situation of the land administration sector.

In some countries- former Soviet states- they had to start from the beginning to establish legal framework, land administration and land registry organisations.

In some countries, like Poland, Czech Republic, Slovak Republic, etc., they had to re-establish land administration sector to make them fully operational and modernising institutions and technical conditions.

In some countries, like Hungary, there was a fully operational land registry, without any gap during the socialist period, on paper base, the main task was to computerise and improve all of the technical conditions within the land administration sector and fit the legal framework to the new requirements

The different political, economic historical background, conditions of land administration, ownership structure have resulted different privatisation instruments.

There are number of instruments which can be used to transfer land properties from the public to private sector including restitution of the land and property, compensation and privatisation. In all cases they require the establishment of explicit legislation and the appointment of an executive body specifically empowered to carry out the land redistribution activity. Restitution and compensation normally involve to set up local committees who make decisions regarding cases. The legislation must consider under what conditions land can be restituted, how compensation can be assessed. It's also necessary to consider appeal mechanisms and responsibilities and procedures such as how the claims should be submitted, which organisation is responsible preparing the implementation of processes, who is the financier of implementation. It's also necessary to decide about the registration of new ownership in the land registry and update cadastral records, maps.

## **PRIVATISATION INSTRUMENTS**

### **Compensation**

This instrument is used where claimants are to be compensated for past injustice or where land claimed in restitution cannot be returned for some reason.

#### **COMPLETE Compensation**

The process of compensation for past injustice involves a ruling concerning the claim followed by the issue of compensation coupons or vouchers. This may involve auctions, whereby compensation vouchers are connected to land. This kind of compensation is usually carried out over a larger area and may involve hundreds of claimants. A good example is the Compensation Programme in Hungary.

#### **SIMPLE compensation**

Compensation may involve direct allocation of land owning to non- availability of land parcel claimed by restitution. In this case state land fund must be established by the government. The main difficulty here is associated with the value estimation of the original land, the level of compensation offered and potential disagreement as to the suitability of the compensation land ( quality, location, shape, etc.). This kind of compensation is usually used and is connected with restitution processes.

### **Restitution**

This instrument is applied to return land to the original owner whose ownership right was removed according to law created by former communist governments. There are several problems appear. Boundaries of land parcels, registered in old registers, cadastre is different comparing with the current situation on the field. Land unit could be in a larger parcel and may have no public access and sometimes is not possible to identify the land unit within the large parcel. The original land has been used for any other purpose ( industrial, residential) The process of restitution may lead to highly fragmented of land. If it's not possible to restitute land it's an alternative to use compensation process.

Restitution is the main type of privatisation in the Czech and Slovak Republic.

## **Privatisation**

This is used to transfer land by sale from state ownership to private person or legal entity. This process is used in Poland and partly in the former Soviet states.

### **Examples of privatisation procedures in CEECs.**

As I mentioned before there was and there are several type of privatisation processes in the Central Eastern European Countries and in the former Soviet states depends on historical background, former ownership structure, conditions of current legal and institutional framework and land administration sector and also on political decision.

The size of this presentation doesn't allow me to describe all cases and I don't have sufficient information about land privatisation procedures in the former Soviet states except Baltic. But as I know in the former Soviet states including Russia the privatisation of agricultural land is in early stage. There is a lot of legal restrictions, moratoriums on selling and buying land and doesn't allow to be used for collateral of mortgages. There is no advanced legal and country wide institutional framework, land administration sector which should implement land privatisation processes and registration and mapping of new ownership.

I selected some, countries approaching to the European Union, in Central Eastern Europe where land privatisation has been completed or in advanced stage.

The selected countries : Czech Republic, Slovak Republic, Hungary, Poland, Lithuania.

### **Land privatisation processes in Poland**

Poland was the single exception where more than 80 % of agric land was remained in private hands during the socialist era. In order to implement the ownership transformation of agric lands a state agency was established in 1991(APA) The agency has been obliged to take over all the state owned farms as well as land and property from the National Land Fund.

The Agency was elaborating restructuring programmes which determine the use of assets.

There are among them:

- sale of farms, lands
- leasehold, tenancy
- low quality farmland passed to State Forest

In order to perform tasks efficiently APA has set up 15 regional branches. The Agency prefers tender procedures for selling and leasing the assets. Farm assets can be sold as a whole or in part depending on the restructuring programme. The payment in instalments with low interest rate is widely used.

There is another way of privatisation is the leasehold which guarantees conditions to lessee for running a business. The lease contracts are valid for several years with fixed conditions for any economic activity.

Since the beginning of the Agency's activity about 4,4 million hectares have been transferred to the APA till end of 1995. Between 1991-95 0,24 million hectares of agric land was sold only. This is 5,5 % of the total stock. At the end of 1995 tenants used 2,7 million hectares of land based on 119 000 contracts which is 62% of the total area.

The result of selling the agric land is very poor. The main reason is the lack of capital of farmers but sometimes the low quality of available land. It seems the state will remain the owner of a large quantity of agric land for years.

## **Land privatisation processes in Czech Republic, Slovak Republic**

The privatisation procedures of land started in 1989. At that time the two countries were still united Czechoslovakia but the privatisation procedures after the separation followed the same way. The main instrument of privatisation has been restitution but also used compensation and privatisation processes.

The Land Act was passed in 1991. This law regulates the restitution of land and compensation in case the land cannot be resituated. A Land Fund was also established and its task was defined. Land Consolidation Law from 1991 supporting the establishment of ownership rights. The newly established decentralized Land Offices implemented restitution procedures. There were several ways to provide land to the former owners. Some of the claimants wanted land for farming, some wanted to lease some of them wanted to sell it. According to claims, several methods was developed to solve problems. Because the original boundaries generally have not been found on the site and lands were highly fragmented, land consolidation processes were the main instruments to reallocate lands to claimants.

### **THE RESULTS of PROCESSES in Czech Republic till 2002.**

Land Offices registered 231 000 restitution claims about on 1,8 million hectares, 25 % of the total area of the country. At the end of 2001 97% of claims have been legally settled, which means, the original parcel numbers of the former owners were registered in the Land Registry without setting out boundaries on the site. The setting out of the boundaries on the site was done only for claimants who wanted to use land for farming.

The land consolidation as method was the instrument of restitution procedures.

#### **Simple Land Consolidation**

The first step was to clarify ownership and followed the physical land consolidation, creating public access to all land and optimising the use of land for farming. This simple method is used in smaller area.

There are 152 000 claimants, 22 641 projects on 494 495 hectares have been completed. 3341 projects on 147 548 hectares have started recently.

#### **Complex Land Consolidation**

Not only ownership arrangement but also multifunctional arrangement of the landscape.

272 projects have been completed on 46 766 hectares, 480 projects on 233 417 hectares have started.

Land Offices are responsible to co-ordinate and implement projects ( 76 districts, 1350 staff) with the assistance of private sector ( 2200 professionals). Approximately 3600 people have been working on land consolidation projects.

### **MAIN PROBLEMS**

- Lack of financial sources for implementing land consolidation projects
- The restitution of lands legally finished but not practically
- There are still regions with incomplete procedures because of uncleared ownership rights

Source : Jiri Trnka (Ministry of Agriculture of the Czech Rep.) „Land Consolidation and Land Management in the Czech Republic”

## **Land privatisation procedures in Hungary**

The privatisation of agric land in Hungary started in 1992, fundamentally based on former agricultural co-operatives owned land. Co-operatives owned 3,4 million hectares of land (35% of the whole country). Two thirds of this land had to be allocated for compensation purpose the remaining land was given to members, employees of co-operatives. Co-operatives used additional 1,8 million hectares of land owned by members of co-operatives. They had to reallocate this quantity of land physically to the owners. In this case it didn't mean privatisation of land because these co-operative members owned the land during the socialist era but they couldn't use it personally

### **COMPENSATION PROCEDURES**

There were three different compensation procedures of agricultural land

- claimants compensation for past injustice
- reallocation of land for co-operative members who owned land at co-operatives
- allocation land for co-operative members and staff

The majority of state owned farms remained state property. The state lease land to professional farmers or legal entities. This is 18-20 % of the total agric land.

People who were entitled for compensation didn't receive back their original lands or properties but they received compensation vouchers, depending on the value of their former land. 1 Golden Crown= 1000Ft ( that time 10 USD). The average quality of arable land is 20 GCR/hectare. The vouchers are stocks could be used for several purpose, one of them is for purchasing land through compensation auctions. During auctions 800 000 new owners have bought 2,1 million hectares of land.

1,8 million hectares of land was reallocated to 1,6 million co-operative members (owners)  
1,2 million hectares of land was allocated to co-operative members and employees.

### **THE RESULT of LAND PRIVATISATION PROCEDURES**

4, 8 million hectares of land  
2,1 million new parcels created  
2,4 million new owners

### **THE IMPLEMENTATION of COMPENSATION PROCEDURES**

1, Claimants compensation for past injustice

20 County Compensation Offices have been established. They were responsible of judging the applications of claimants and also carrying out compensation auctions. The legal documents of claims have been issued by 116 District Land Offices (Land Registry). Fortunately the Land Registry was fully operational during the socialist period and they could provide the legal documents for claimants based on the archived land registry documents, data.

The 116 Land Offices were also responsible to prepare the subdivision survey plan (based on the result of compensation auction) setting out and physically marking legal boundaries of new parcels on the site and finally the registration of new owners and updating cadastral maps in the Land Office (Land Registry)

The survey work was completed in 1997 and the registration of new owners in 2000. The whole procedure was financed by the state.

## 2, Reallocation of land for co-operative members (owners)

Local Land Allocation Committees have been established. They were responsible to allocate equivalent value of land for the entitled members. The survey work have been done by private surveyors and 50 % of the costs was financed by the state. 90 % of all cases have been registered in the Land Offices.

## 3, Allocation of land for co-operative members and employees.

They were entitled 20-30 Golden Crown value of land. The procedure was the same as 2,

At the end of year 2000 the land privatisation procedures were completed, including setting out, marking of boundaries of new parcels on the site and registered in the Land Offices. As a result of land privatisation, 80-85% of agric land is in private hand and 15-20 % of land remained state property.

## Problems, resulted land privatisation

Highly fragmented agric land properties ( but efficient land use). There are many non professional land owners created bad ownership structure.Restrictions of buying and owning agric lands.

Land consolidation projects are needed in the near future.

## **Land reform in Lithuania**

In Lithuania there was no operational land registry and cadastre during the communist era till 1990.

Establishing of land registry and cadastre institution was a simultaneous task with the implementation of land reform. The land reform in rural area is carried out by 10 County Management, 44 District Agricultural Boards and 426 Boards of Agrarian Reform at local authority level.

Restitution projects have been carried out by National Land Survey under the Ministry of Agriculture. The procedures included surveying, mapping and registration of ownership in the Land Registry

There are three categories of land privatisation procedures.

A, Agricultural and forest land

B,Garden parcels

C,Residential parcels

## **PRIVATISATION OF AGRICULTURAL LAND**

Agric land could be acquired by former owners according to documents and actual land users. 560 000 claimants required land till now. 74 000 applications on 629 000 hectares of land was accepted, surveyed and registered.

The progress of land privatisation 300 000 thousand hectares, 44 000 claimants annually.They expect to complete this work by the end of 2006.

Source: Romualdas Kasperavicius , Lithuania



## **Conclusions**

Land privatisation procedures are varying in CEECs depends on many circumstances but there are common needs and elements must be followed in every countries

- 1, Comprehensive land policy has to meet the requirements by the society
- 2, Establishment of legal and institutional framework is necessary before land privatisation is started
- 3, Establishment of land administration sector, especially land registry and cadastre is an essential precondition of land privatisation
- 4, Sufficient number of professionals is needed for implementation of land privatisation
- 5, State must be the major financier of the privatisation procedures

## **References:**

J.F.M. Swinnen (2000 ) :Political and Economic Aspects of Land Reform and privatisation in CEE.

Theo Bogaerts : A Comparative Overview of the evolution of Land Information Systems in Central Europe

András Osskó- A. Hopfer ( 1999 ) : Eastern Europe's' lessons from the past and aspiration for the future: running to catch-up or blazing a new path ?  
UN-FIG Conference Melbourne, Australia