

Land consolidation as a policy instrument in agriculture – procedural aspects and sources of delays

Robert Szewczyk¹  0000-0003-0885-8610

Paweł Hanus²  0000-0002-7834-2217

¹ Department of Agricultural Surveying, Cadastre and Photogrammetry, University of Agriculture in Krakow

² Department of Integrated Geodesy and Cartography, AGH University of Krakow

✉ Corresponding author: robert.szewczyk@urk.edu.pl

Summary

Land consolidation is one of the basic processes enabling the shaping and improvement of agricultural land structure. This process is in most cases implemented using State Treasury funds and public resources. Its execution requires an approval decision for the consolidation project. This decision, being an administrative ruling, may be appealed by any party to the proceedings and subsequently challenged in administrative courts. This procedure may lead to protracted proceedings and, consequently, multi-year periods that prevent rational land management and effective exercise of property rights. The article analyses the consolidation process, identifying potential bottlenecks causing delays, with supporting examples from ongoing consolidation proceedings.

The land consolidation process in Poland faces significant challenges related to time-consuming procedures and rigid funding frameworks. Current regulations allow for multiple appeals, which are sometimes exploited by claimants blocking entire proceedings. Cases like Lipnica Wielka demonstrate that procedures can drag on for years, restricting owners' rights. Legal reforms modelled on special-purpose legislation (such as for infrastructure or flood protection) are necessary to separate compensation disputes into separate proceedings and limit procedural abuses. Introducing merit-based requirements for appeals and owner education could accelerate consolidation processes while ensuring economic benefits and better rural land management.

The current land consolidation system, though essential for rural development, remains inefficient due to excessive bureaucracy and lack of safeguards against abuse. Urgent legal amendments inspired by special legislative measures are required to ensure procedural efficiency and fairness.

Keywords

land consolidation • administrative proceedings • appeal against the decision • judicial review application

1. Introduction

The land consolidation process is one of the oldest processes related to the modification of agricultural land use structure. It is one of the key tools for shaping rural areas and modifying them in problematic situations [Asiama et al. 2021]. In Poland, the consolidation procedure is executed as a government administration task carried out by the county administrator under the Common Agricultural Policy of the European Union [Janus and Markuszewska 2017]. The aim of this policy is to equalise agricultural production conditions [Csáki 2000, Lisec et al. 2014, Janus et al. 2016]. The consolidation process is an administrative process ending with an administrative decision. Administrative conditions, in particular those related to the two-instance nature of the proceedings and the possibility of lodging complaints with administrative courts, as well as the complexity of the consolidation process itself, may result in the entire proceedings being protracted.

Land consolidation proceedings in Poland are governed by two main regulations:

- Act of 26 March 1982 on land consolidation and exchange [Ustawa 1982],
- Act of 14 June 1960, Code of Administrative Procedure [Ustawa 1960].

The first of the provisions [Ustawa 1982] is mainly technical in nature and specifies the rules and technical procedures related to the land consolidation process. The second act is a general provision regulating proceedings before public administration bodies, including the district administrator conducting the consolidation proceedings.

One of the characteristic features of administrative proceedings is the principle of two instances. A party always has the right to appeal against a decision concluding such proceedings. If the decision is upheld in the second instance, the party has the option of lodging a complaint in administrative proceedings with the Administrative Courts (voivodeship or supreme administrative court). In consolidation proceedings executed as government administration tasks, the second instance authority in relation to the starost (at district level) is the voivode.

A potential problem associated with the possibility of appealing against the starost's decision is the fact that all owners of the consolidated land are parties to the proceedings. Each participant in the consolidation may therefore appeal against the starost's decision. Each appeal will have to be considered by a second instance body. This raises concerns about possible delays in the entire proceedings. This paper analyses certain consolidation proceedings, with particular emphasis on the appeal stage and its impact on the length of the proceedings.

2. Description of the research object

The municipality of Jordanów is located in southern Poland in the Małopolska voivodeship (Fig. 1). The municipality comprises five villages, i.e. Łętownia, Naprawa, Osielec, Toporzysko and Wysoka. Agricultural plots in these areas are highly fragmented and require consolidation works.



Source: Authors' own study

Fig. 1. Location of the Jordanów municipality

Consolidation works in the municipality of Jordanów began in 2006. That was when a part of the village of Łętownia, covering an area of approximately 200 ha, was separated for the purpose of developing a 'model consolidation.' The role of this consolidation was to encourage residents to participate in consolidation works. The works were carried out quickly and efficiently. As a result of the consolidation works, land management and the quality of geodetic data improved [Hanus et al. 2018, 2020]. The consolidation works resulted in an increase in land value [Tezcan et al. 2020] and satisfaction among the local community [Lisec 2014]. Post-consolidation development included the construction of new roads. The new roads, which do not require renovation, led to significant savings for the local municipal government. This was another factor contributing to the positive reception of the consolidation works in the local administration [Awasthi 2014].

In 2010, stages II and III of land consolidation works were launched in the village of Łętownia (Fig. 2). Stage II of consolidation covered an area of 981 ha, while stage III covered a total area of 1,063 ha. The work improved the consolidation indicators. Consolidation works on the Łętownia II site were completed in 2016. During the subsequent stages of consolidation works, the claims of the consolidation participants became noticeable. After the completion of the works, there was a significant increase in the number of objections to the works performed. Some of the claims were very difficult to satisfy, which resulted in the discontinuation of the consolidation proceedings at the Łętownia III site in 2016. In 2017, works on the Łętownia III facility were resumed. In 2021, surveying of this facility was completed. Post-consolidation development for the Łętownia III facility is planned for the end of 2025.

Funds from the 2014–2020 rural development program were obtained for consolidation works in the village of Wysoka in 2017 (Małopolska Province ranking list). Under these works, it was planned to consolidate land with a total area of 1,443 ha (Fig. 3). Geodetic consolidation works on this site were carried out from 2017 to

2021. Post-consolidation development for the village of Wysoka is scheduled for the end of 2025, similarly to the Łętownia III site.

3. Description of administrative procedures for surveying consolidation works

Land consolidation works in Poland are quite formalised, and are based entirely on the provisions of the Act on Land Consolidation and Exchange. Under this procedure, a significant part of the consolidation works is controlled and approved by an administrative body, i.e. the starost (the district administrator). An important element of the land consolidation approval procedure is the administrative decision. In the case of land consolidation, the administrative decision approves the new scope of property rights in situ. A summary of decisions approving land consolidation in the studied area is presented in Figure 4.

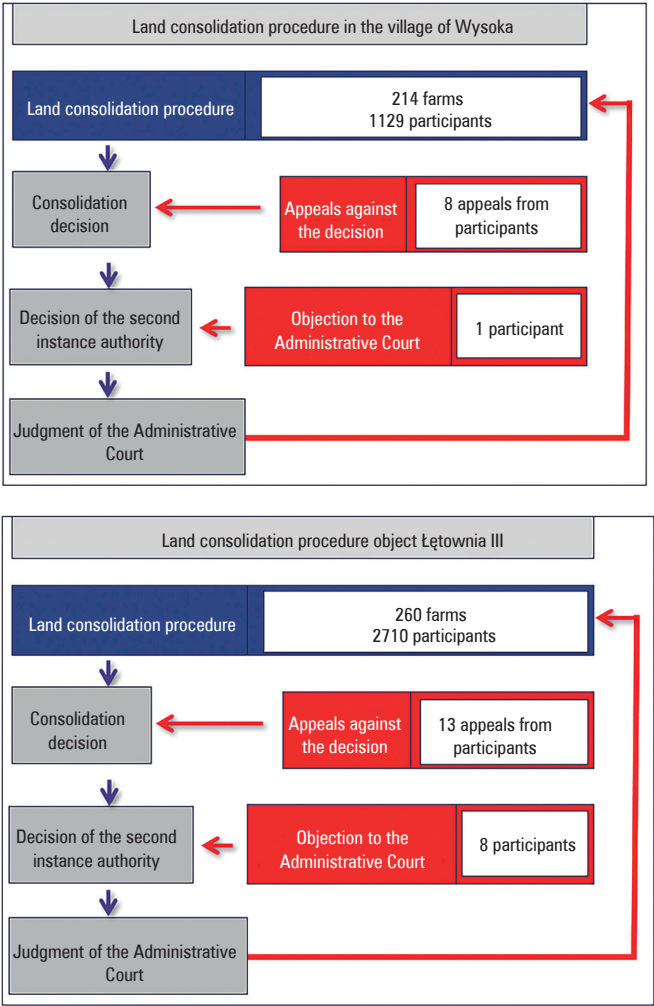
Wysoka	Date of commencement	Year 2017
	Starost's decision	29.04.2021
	Approval of consolidation works	
	8 appeals against the decision	
	Voivode's decision	16.09.2021
	Reversal of the Starost's decision	
	Objection to WSA	
	Judgement of the voivodeship court	09.11.2021
	Dismissal of the complaint	
	Starost's decision	27.05.2022
	Post-consolidation development	Year 2025*

Łętownia III	Date of commencement	Year 2017
	Starost's decision	27.08.2020
	Approval of consolidation works	
	13 appeals against the decision	
	Voivode's decision	15.12.2020
	Reversal of the Starost's decision	
	Complaint of 11 participants	
	Judgement of the voivodeship court	28.05.2021
	Dismissal of the complaint	
	Starost's decision	31.08.2022
	Post-consolidation development	Year 2025*

Source: Authors' own study

Fig. 4. Administrative decisions regarding the Wysoka and Łętownia facilities

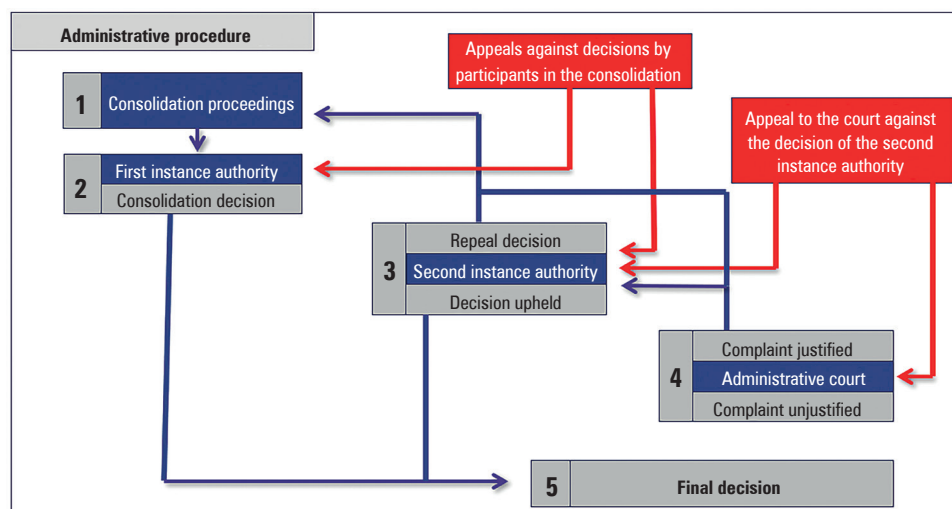
An important element of the consolidation process are the participants, i.e. the owners of the farms involved in the process. It should be noted that in the village of Wysoka, 214 farms were included in the consolidation process, while the third stage of consolidation in the village of Łętownia covered 260 farms. In addition to farm owners, the consolidation also involved legal entities, institutions and natural persons who were not farm owners, e.g. heirs who do not reside in the municipality or persons who purchased plots of land for recreational purposes. In total, there were 1,129 natural and legal persons who owned land in the village of Wysoka, while in the village of Łętownia there were 2,710 such persons.



Source: Authors' own study

Fig. 5. Appeals and complaints against decisions at the Wysoka and Łętownia facilities

In the case of these works, one could observe a greater sense of entitlement among the participants and an awareness that an appeal could block all funding for the consolidation works. This resulted in 13 appeals against the decision of the Starost of Sucha Beskidzka approving the Łętownia stage III consolidation project and 8 appeals against the decision concerning the consolidation of land in the village of Wysoka. In accordance with the regulations, the second instance authority was the Provincial Supervisory Inspector. Eleven complaints were lodged with the Administrative Court against the second instance authority's decision on the consolidation of land at the Łętownia III facility, while one objection was lodged against the second instance decision concerning the Wysoka facility. The Administrative Court in Krakow dismissed the objection as unfounded, while the main complaint was dismissed and the remaining 10 were upheld. The realisation of individual stages of consolidation work on the Wysoka and Łętownia III facilities is presented in the figure above. A scheme of the procedure for approving the consolidation decision, accounting for appeals by consolidation participants, is presented in Figure 6.



Source: Authors' own study

Fig. 6. General scheme of the administrative procedure related to the approval of a land consolidation project

The above diagram shows five stages of the administrative procedure related to appeals made by the participants of the consolidation. The first stage involves surveying and administrative work. The outcome of this work is an administrative decision by the district administrator (stage 2) approving the new proposed property boundaries in the area covered by the consolidation works. Persons dissatisfied with the newly designed boundaries may appeal against this decision. Appeals are considered by the second instance administrative authority in administrative proceedings (stage 3). The second

instance authority may uphold the district administrator's decision, which will become final (stage 5), or uphold the claims of the consolidation participants and overturn the district administrator's decision. If the decision is overturned, the proceedings are resumed (stage 1) by the district administrator in order to consider the appeals of the consolidation participants. Participants in the consolidation who are dissatisfied with the decision of the second instance administrative authority may lodge complaints with the administrative court. The administrative court (stage 4) may dismiss the complaint or, if it upholds the complaint, declare that the decision was issued in violation of the law. If the administrative court upholds the complaint, the case returns to the first stage.

4. Discussion

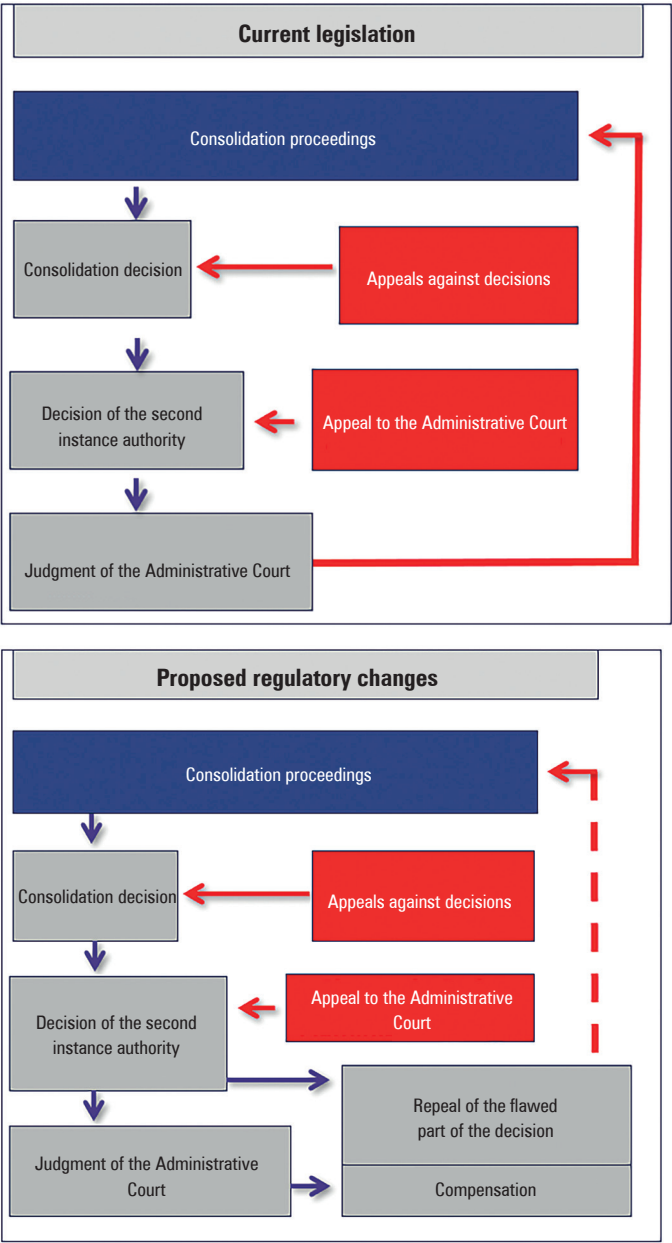
The process of land consolidation and exchange involves a series of steps aimed at improving farming conditions on agricultural and forest land [Wójcik-Leń et al. 2017, Zang et al. 2021]. This results in an increase in property value [Jiang et al. 2017, Ertunç et al. 2022].

The changes implemented as a result of these actions may cause some people to believe that the consolidation works have not been executed optimally. With such a large group of participants, it should be assumed that there will always be some dissatisfied individuals.

As shown in Figure 6, stages 1 to 4 may be repeated depending on the merits of appeals and complaints lodged with the Court. The matter is complicated by the fact that this action must be completed within a specified time frame, i.e. within the time limits set out in the financial perspective of the Rural Development Programme. If the action is not completed within the specified time frame, the authority conducting the consolidation must return the entire subsidy. Persons aware of these circumstances may take advantage of the situation by making unjustified claims. The authority at risk of losing funding may give in to unjustified claims for fear of losing funding. Closing the consolidation procedure in the above administrative scheme, which allows the entire procedure to be repeated, is flawed. Therefore, it is necessary to modify the scheme of regulations in this regard.

Figure 7 presents a simplified outline of the appeal procedure in the land consolidation process. The left side of the figure shows the current regulations in this area. The outline clearly indicates that the procedure may be repeated multiple times. Therefore, it is necessary to introduce appropriate tools to prevent the procedure from being repeated multiple times. To this end, we propose the appropriate tools presented in the diagram on the right. This tool would consist of two elements. The first element would be the possibility of repealing only the defective part of the decision, while the second element would be the award of appropriate compensation for the shortcomings of the decision.

The proposed solution is intended to prevent consolidation works from being blocked by repeated appeals. An important factor that may affect the number of appeals is the large number of participants in the consolidation. With a very large group of



Source: Authors' own study

Fig. 7. Chart of the appeal procedure

people participating in the proceedings, there will always be people dissatisfied with the consolidation work. Another factor is the protection of the interests of the majority of participants who are satisfied with the consolidation works, which may be blocked by a small percentage of dissatisfied people.

The proposed solutions are provided for in Polish law, and are included, for example, in the special road and flood protection acts. In these acts, the legislator excludes the possibility of revoking a decision in its entirety and declaring it invalid when only part of the decision may be flawed. However, issues of compensation and appeals against the amount of compensation have been transferred to separate proceedings. In the case of consolidation regulations, no compensation is provided for, and as we know, it is impossible to carry out such a large task as consolidation in a way that satisfies everyone.

5. Conclusions

In the course of consolidation works, there must be actions taken to ensure that the assumptions for improving the management of agricultural and forest land are met. Realising these tasks makes the land consolidation process time-consuming. On the other hand, consolidations must be carried out in accordance with the financing procedure provided for in the Rural Development Programs within a specified time frame. The overlap of these two factors means that participants in the consolidation process can take advantage of this phenomenon. A single appeal obstructs further work on the entire consolidation project. The protracted nature of the proceedings may lead to the cessation of financing and the need to return the granted funds. This method of financing leads to the participants in the consolidation proceedings becoming more claimant.

Figure 6 in the article highlights in red the events that prolonged the land consolidation process (appeals against decisions and complaints to administrative courts). Current regulations allow this procedure to be repeated multiple times. In extreme cases, a single dissatisfied participant suffices to effectively block the entire land consolidation process. Therefore, it is worth mentioning other examples in Polish regulations which provide for the exclusion of certain tasks to separate proceedings and prevent the decision from being revoked in its entirety. Examples of such regulations are special acts, e.g. the special road or flood act. Special acts provide for the limitation of administrative procedures in order to execute tasks that are socially essential. Special acts provide for procedures that exempt certain activities to be conducted in separate proceedings, e.g. the procedure related to the payment of compensation.

Land consolidation works significantly restrict landowners in their free management of land. Thus, any prolongation of administrative procedures imposes significant restrictions on the owners of consolidated land. In extreme cases, such restrictions continued for over 20 years in the village of Lipnica Wielka. In order to regulate the legal situation, it was necessary to create new legal regulations under the Act of 2022. To avoid such problems, appropriate regulations are necessary in the legal system concerning consolidation proceedings.

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