

Development in Rural Land Arrangement and Legal Regulations in Turkey

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ABSTRACT

Although Turkey has great agricultural and natural wealth potential due to its soil structure, climate and topography, it faces big problems because of its 37% rural population, 45% of agricultural employment and insufficient agricultural and rural development policies. As a result of this fact, both the quality and the sizes of agricultural holdings reduced and also numbers of them are increased.

In Turkey, rural land arrangements have been performing by two different methods- one of them is performed in whole Turkey except the reform region, the other one is just performed in reform region - and two legal references. Turkey and especially Southeast Anatolia Project region needed big-scaled rural land arrangements.

The paper presents developments in rural land arrangement laws and new legal regulations related to obtain land for some precaution in rural land arrangements in Turkey.

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1. INTRODUCTION

Although rural land arrangements have been carrying out for about forty years in Turkey, legal regulations about this are too complicated and there is no special law for this subject. Rural land arrangements have been performed according to land consolidation implementations, establishment laws of institutes that put applications into practice, related statutes and agricultural reform law. In this context, legal arrangements relevant to land consolidation have been investigated in the scope of general subjects and development process.

2. DEFINITION, OBJECTIVE AND SCOPE OF LAND CONSOLIDATION IN TURKEY

The first legal regulation about land consolidation was prepared in article 678 of the ex-civil code in Turkey. According to this, "Improvement of lands and waterways, desiccating of swamps, becoming forested, constructing the way, combining the forest and the parts of village lands is only performed by the participation of several owners. Therefore it should be decided by the people who has more than half of the plots and constitutes the 2/3 of the owners. The others have to adapt to these decisions."

After the foundation of TOPRAKSU (General Directorate of Soil and Irrigation Works), the article 678 of the civil code has been applied to four consolidation projects on 1100 hectares between 1961-1966. (GDRS,2000). Also both of the two consolidation statutes which are prepared in 1966 and 1979 are based on the same section.

Land Combination Statute dated 1966, had limited the extent of land consolidation with conditions which has been obligated by soil protection and the agricultural irrigation techniques. According to this statute, land consolidation is the combination, rearrangement, alteration of the places or forms and parceling in the conditions which has been obligated by soil protection and the agricultural watering techniques. In this definition, land consolidation is a limited application.

Land Combination Statute dated 1966 had been carried out until The Land and Agriculture Reform Law with number 1757 go into effect and 9285 ha lands have been consolidated in 41 consolidation projects according to this statute. (GDRS,2000). The Land and Agriculture Reform Law with number 1757 has taken effect in It has been in force for five years and repealed on 10.05.1978. It had brought some detailed rules related to land consolidation but there is not any application about consolidation in the reform areas. According to the Land Consolidation Regulations, it has been realized 21 consolidation projects in the land of 16122 hectares outside of the reform areas by TOPRAKSU. (GDRS, 2000).

On the law 1757, the purpose of the consolidation was defined as to bring together agricultural plots, which were inappropriate for economical production, land protection and irrigation, because of being small, scattered and deformed into one or a few pieces as possible.

The law 1757 has aimed to unit scattered lands, which are disable to the economical production, and if it is necessary, expand the lands and also prevent the land smashing under the economical size by land consolidation. It was the first time increasing the size of agricultural land taken up with the scope of land consolidation by this law. General Directorate of Land and Agriculture (LAGD) had been given the authority to use lands, which were under its possession, to increase the size of lands.

After repealing the law 1757, TOPRAKSU had performed land consolidation applications according to the Land Combination Statute dated 1966.

Land Consolidation Statute went into effect; decision no 7/18231, on November 1979. This statute includes some similar rules to the statute dated 1966 and the law 1757 and also got a few new rules. But it has been limited to land consolidation as just performed when the irrigation and soil protection techniques were obligatory. Land consolidation applications have been practiced in all lands of Turkey according to this statute.

The law 3083, dated 1984, has been regulating agricultural reform rules that related to arrangement of lands in irrigation areas. It is also taken agricultural reform precautions in the irrigation areas and the lands which are declared necessary by the Council of Ministers.

Agricultural reform precaution rules described as increasing agricultural productivity, distributing state lands to the farmers which have insufficient lands or no lands, practicing land consolidation, regulating usage of agricultural lands without agriculture, utilizing not distributed lands, changing the type of ownership and land tenures and rearrangement village settlement in required places(where were declared necessary).

In the law 3083, land reform precaution is not defined but it is possible to nationalize (transfer private ownership of land to the public ownership state) private lands and distribute them. But there hasn't been any nationalizing for this purpose so far. There has been just distributing The Treasury lands and giving back lands which nationalized by the law 1757.

The purpose of the law 3083 about land consolidation is same in the law 1757.

2.1 Land Consolidation Decision in Jurisprudences of Turkey

According to the article 678 of ex-civil code, land owners who own more than 50% of lands and whose proportion to all owners is 2/3, must make a decision to combine land pieces. The other land owners must obey these decisions.

In The Land Consolidation Statute dated 1979, according to the article 678 of ex-civil code, land consolidation implementations depend upon owners' demand. This method is called" Voluntary Land Consolidation".

In the law 1757, voluntary and obligatory consolidation methods take land consolidation decision had been accepted. Voluntary land consolidation could be performed if one quarter of landowners applied for and the owners got more than half of the lands to be consolidated and the number of land owners was half of the owner numbers. The areas, which obligatory consolidation to be implemented, had been limited lands and land reform regions. According to the law which regulates consolidation in all areas of Turkey, duties and authorities had given to General Directorate of Rural Services (GDRS) in the reform region, would be done by TOPRAKSU out of the reform regions. Since obligatory consolidation done by TOPRAKSU had been limited with reform region, voluntary consolidation method had been implemented in the areas out of reform region.

In the law no 3083, both voluntary and obligatory consolidations can be applied as in the law 1757. In this law it is explained that, the related institute can take some measures such as enlarging farmlands, giving credits etc. to encourage the people to take voluntary land consolidation decision. But these precautions have never been taken and all the land consolidation implementation which have been performed, are obligatory.

2.2 Implementation Areas of the Land Consolidation

Laws and instructions about the land consolidation is generally limited to soil protection and agricultural irrigation techniques.

In the statute dated 1979, the authorization had been limited with watery lands which can be performed only in private lands.

In the law 3083, the land consolidation can be implemented to both watery and dried lands.

According to the GDRS Establishment Law, no: 3202 dated 1985; the land consolidation is implemented by GDRS. GDRS is charged with consolidate of smashed, scattered, and deformed lands in the measure of technical, economical and enterprise possibilities. It has been defined in this law that the land consolidation is also performed in dry agriculture lands. It has been defined in this law that the land consolidation is also performed in dry agriculture lands.

In the GDRS Establishment Law, the land consolidation works will be rearranged by a new Application Instruction that has been explained. So as not to realized this application instruction, the consolidation works has been implementing according to rules of the statute 1979, based on the principle of performing existing statutes and instructions until new ones have been made.

2.3 Principles to be Regarded in Land Consolidation

Land consolidation is going to be performed in the areas, where cadastral survey is completed, according to the statute dated 1979 and the law 3083. With respect to the statute dated 1979, if cadastral survey is not performed in the consolidation areas, cadastral survey

and getting title deed is done primarily. On the statute dd 1979, land owners and the project management determine the requests related to consolidation for the benefit of individual and public by making a pre-interview.

2.4 Participation to The Land Consolidation Costs

Participation of the land owners for the land consolidation costs has only clarified in the establishment law of TOPRAKSU, no 7457. There is no rule about land consolidation works in the statute dated 1979 and the law 3083.

2.5 Participation of Common Usage Areas in the Land Consolidation

In the statute dated 1979, participation to common usage areas has been defined that; “ the areas required to construction of road networks, irrigation water and discharging canals, and common facilities will be assured from the lands, gained to agriculture thanks to consolidation, by the new parcellation to be done”. The part which can not be assured by this way will be subtracted from the land given to owners.

The participation to common usage areas has not been defined in the law 3083 and according to application instruction, land amount required for common usage areas would be assured from The Treasury lands. If there is not sufficient treasury lands, missing amount would be nationalized.

With an article added to the law 3083 it has been corrected, a participation share of 10% for common facilities, like roads and canals, will be deducted from the lands, belong to real people and the artificial people of public and private law. Any costs will be paid for this deduction and closed roads for consolidation and extra roads will be used for this purpose. If deduction amount exceeds 10%, extra amount will be provided from the Treasury lands primarily. If it is not possible the extra amount will be expropriated.

2.6 Preservation of the Land Consolidation Results

On the statute dated 1979, there is no rule related to consolidation results.

According to the law 3083, “Agricultural lands distributed or given to its owner at the end of the consolidation are registered to its owner and left is registered to The Treasury. The land registered to its owner can not be divided into smaller parts than the normal size, defined for this region, and not be divided into lots. This situation is defined in the register of title deeds. The law 3083 has defined the smallest agricultural holding size as distribution norm

2.7 Preservation of Agricultural Lands in The Land Consolidation

The preservation of agricultural lands and the regulation of them out of purpose is an application in the scope of rural land planning. Preservation of the land consolidation results and preservation of the agricultural lands are same in a point of view. The usage instruction of the law 3083 has projected that; agricultural lands can not be used out of purpose in the

application areas. But, if required, these lands will be used for the investments, like agricultural industry and industrial regions, airports, dam and ponds, power plants, touristic places, sports areas, mine , stone, sand mines, and requirements for national defense by the permission of General Directory

2.8 Synchronization Between Foundations in The Land Consolidation

On the statute dated 1979, the synchronization between public establishments and real and artificial people will be supplied by the Project foundation. But how to synchronization will be supplied is not defined in detail. On the law 3083 and the usage instruction there is not any rules related to synchronization between foundations.

2.9 Rural Settlement

Although, there is not any decision about rural settlements and their regulation in the statute dated 1979, GDRS that is responsible for carrying out the land consolidation works outside of the reform areas, has been also charged with settlement arrangement in villages and rural areas according to its establishment law.

According to the law 3083, with decision of The Council of Ministers, new settlement areas can be established or existing villages can be integrated with sub-village areas in application lands. Current sub-village settlement units can not be established. But works about village settlements has not taken up with the land consolidation implementations so far

3. APPLICATION OF THE LAND CONSOLIDATION PROJECTS IN TURKEY

The land consolidation works are implemented in the agricultural reform areas by General Directory of Agricultural Reform (GDAR) according to the law dd 1984, no 3083 and in other areas they are performed by GDRS, according to the decision of The Council of Ministers dd 1979, no: 7/18231 (Land Consolidation Statute). The summary is given in Figure 1 about the legal supports which are in effect and repealed.

GDRS and GDAR have the authorization of making and having made the consolidation works according to the laws 3202 and 3083. Establishments carry out the control, synchronization between foundations, pre-interview between landowners in the consolidation area, determination of consolidation requests. Engineering services of the consolidation is carried out by the private sector.

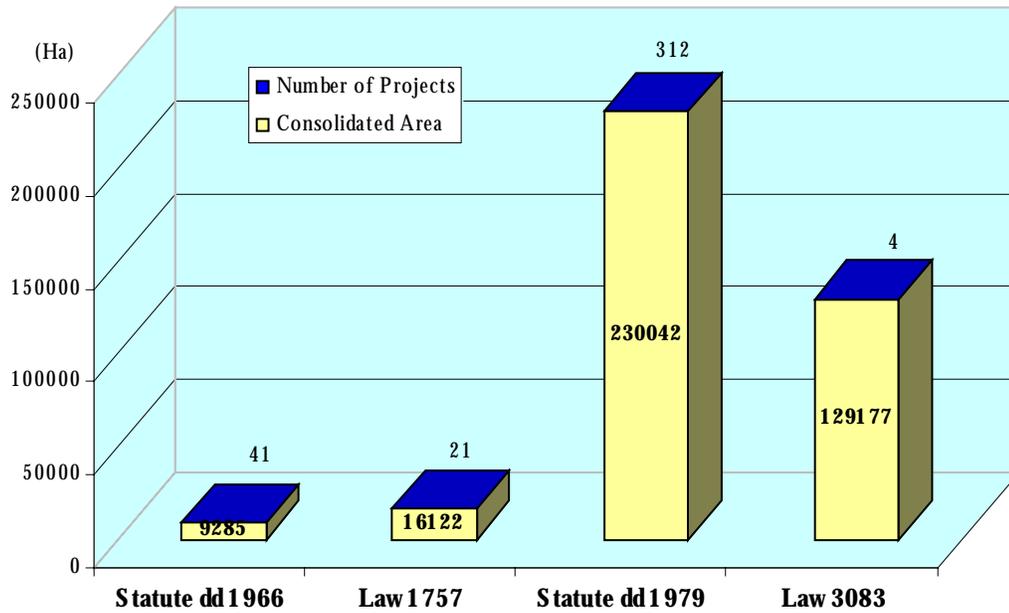


Figure.1. The Land Consolidation Works according to the laws in Turkey

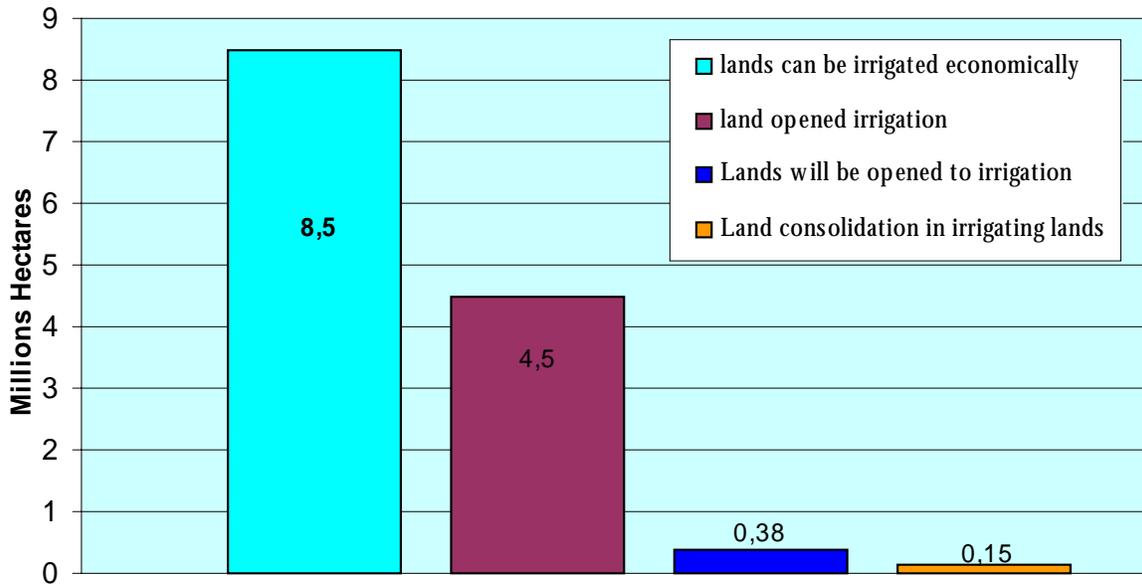


Figure-2: The Watery Agriculture Lands and The Land Consolidation Works in Turkey

3.1 The Land Consolidation Projects Performed by GDRS

Although the land consolidation works are not realized in wide areas, the farmland development services like farmland transportation, drainage, irrigation investments and amelioration and grading of lands is also performed with the integration of smashed lands.

Land consolidation implementations in Turkey started in 1961 at the Karkin village of Konya province.

In the period of 1961 to 2000, land consolidation projects have been applied in 255.449 hectares at 26 provinces by TOPRAKSU. Land consolidation service has been given to 152.289 landowners. With these applications, the number of plots has been decreased from 262.708 to 138.029 and the consolidation rate is 47.5%. The average plot size was 11.65 decares before consolidation and it is 19.62 decares with an increase of 68.5%. Number of plots per holding has decreased from 2, 64 to 1, 40 and average enterprise size is 26, 88 decares in the project areas (Gur,2001).

The consolidation rate and decrease in the parcel number is small due to land owners' demand and also uniting lands in their ranks. The rate was increased up to 85% as a result of the statute dd 1979.

Agricultural plots have been connected to irrigation canals, road and the drainage system and the Project areas have been opened to agricultural activity by grading and improving lands.

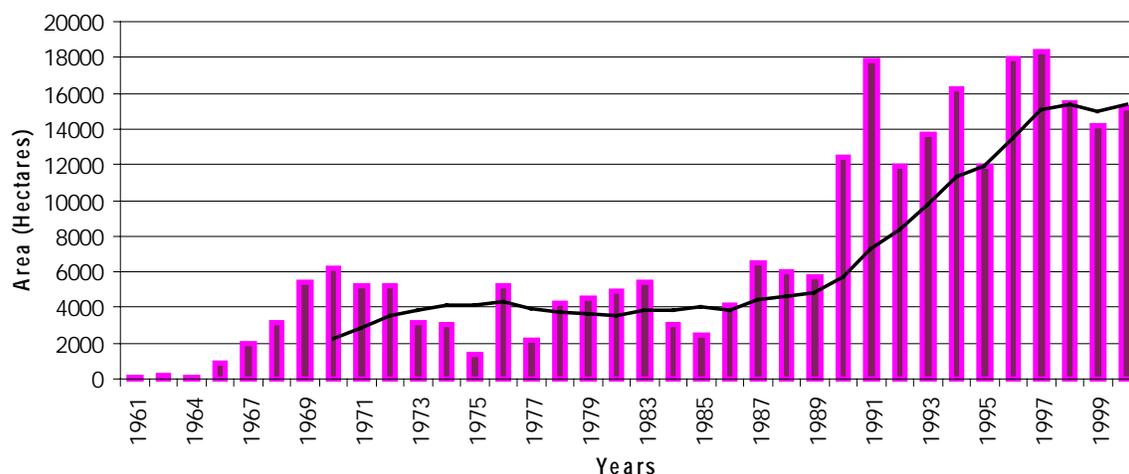


Figure-3: The Land Consolidation Projects performed by GDRS

GDRS got private sector to do engineering services of the consolidation projects after 1986 and a remarkable increase has been observed.

3.2 The Land Consolidation Projects Performed by GDAR

The first consolidation Works have been delegated to private sector by SPO (State Planning Organization) on Sanliurfa Plain in 1989. The land consolidation works has been completed in 129.177 hectares up to year 2000.

According to the law 3083, voluntary and obligatory land consolidation can be performed, but obligatory land consolidation decisions have been taken in all project areas (GDAR, 2000).

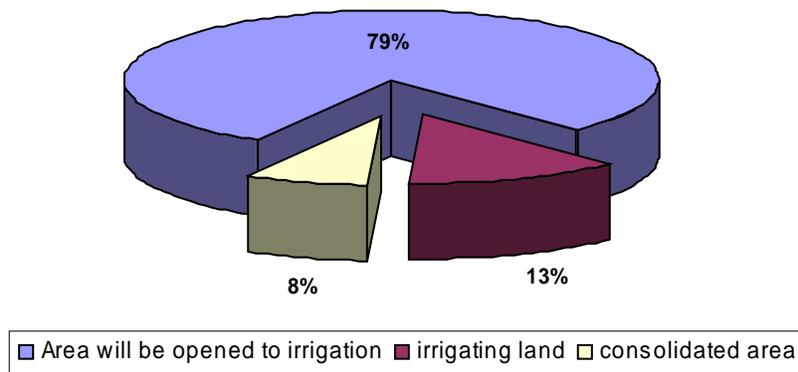


Figure 4 The land Consolidation Projects Performed by GDAR and current condition in GAP Region

According to the law 3083, 35 villages the Treasury Lands of 101.176 decares have been distributed to 755 owners in the scope of this project.

4. CURRENT DEVELOPMENTS

4.1 Land Consolidation Law

Carrying out the land consolidation applications according to a statute hasn't been providing the requirements of Turkey. It has been considered more extensional in the adaptation process to European Community (EC) and the preparation of the new land consolidation law has been accelerated.

The current precautions to be taken are generally as follows:

- To prevent scattering of the land
- To expand farmlands as far as possible if necessary,
- To perform and determine land usage planning
- To protect of nature and environment
- Arrangement of rural settlements and to constitute new settlement (to arrange rural settlement)

And also the deduction is defined as 10% in this draft. It is protected that owner is to participate in the cost of land consolidation works.

4.2 Rural Settlement Areas Operations

4.2.1 Centre Village (Village-City) Implementations

Rural settlements units are scattered and the number of them is too high in Turkey. Thus, it is impossible to provide all local or central public services to each of those units. The central village approach has been suggested in the purpose of (to provide) selecting village that are suitable for development as the centre of group and to collect various agricultural, industrial

and public services and foundations in this regions. And also to get to (provide) develop local communities by being affected in this way has been aimed. In this stage, distance between villages, transportation opportunity and economical and social relationship between the village groups, that consist of 8-10 villages, should be taken into consideration.

Various studies had been done between 1970 to 1978 but unfortunately it had not been resulted. It has been implemented by the coordination of the Counsellorship of Prime Ministry in Çavdar village and it's suburbs – Ordu province- and Ozalp village and it suburbs –Van province- and it has been going on with new projects in the scope of pilot projects. Also to prevent and reverse migration, between essential goals of the Project, is an important target.

Although various precautions has been taken according to the characteristic of the Project region, the general traits of projects are as follows in the implemented pilot projects.

- To build up residence
- To develop or construct the infrastructure services like road, water, electricity, and sewage
- To improve or build socio-cultural services places like school, hospital, etc.
- To improve or build economical service places like shopping centers, repair shops and product processing places
- To support agricultural and bestial production

These projects have been performed by public to cause rural development and to give an example. To spread new settlements, which can be thought as a central village, to all areas of Turkey seems impossible with this economical condition of The Government yet.

The central village implementations have some deficiency. These are performed independently from a legal support and the land consolidation works has not been thought with these projects

4.2.2. Village Renewal-Revival Implementations

In February 1993, after meeting between the members of GDRS Irrigation Department, Yildiz Technical University, Rural Development Department of Bayern and Munich Technical University, a decision was made to apply a pilot village renewal project in a land consolidation implementation with Haans-Seidel-Stiftung support (Demirel & others,2001)

In this project, the principle “help the others to help themselves” was accepted. In this project, the principle “help the others to help themselves” was accepted. A synergy has been obtained with implementing land consolidation and village renewal-revival together. So all the villagers have participated to this new trial project with the effect of this project, positive improvements have been observed in the village life. In the scope of land consolidation, land exchanges had been done to regulate and develop traffic network, living conditions, residences with respect to preserve the village's attributes and environment (Demirel,2000)

5. RESULTS

Although 34% of population lives in rural lands and 66% of population lives in urban in Turkey, industrialization has not been realized as targeted and agricultural employment is still important with the share of 45%.

Advantages of the land consolidation and its treatments have been understood with applications. Although the reason required consolidation in Turkey, like environmental protection, rural settlement arrangement, rural land usage planning is too comprehensive, most of them has not taken into consideration in the 40 years of the land consolidation.

The consolidation works has been generally performed with the irrigation investments in Turkey. Because of insufficient synchronization between GDSHW (General Directorate of State Hydraulic Works), which performs big irrigation projects, and GDRS, which makes consolidation and development of farmlands, and in the agricultural reform areas between GDAR and both of them. In Turkey, 4.5 million hectares lands have been opened irrigation but on the other hand only 8% of these lands have been consolidated. So a lot of agricultural holdings can not utilize from irrigation. It is known that the synchronization between the establishments is required, but it can not be realized. Distribution of the sources, suitable for planned investments, can not be performed. Lack of macro planning in agriculture, non-serious policies and inconsistency has itself felt in this area (Gür,2001)

One of the important reasons, requiring contemporary rural land arrangement works, is the obligation of protecting the nature, environment and agricultural lands. Almost all of the rural land investments have caused ruining of the ecological landscape components and natural balance.

The land consolidation requires a new legal and organizational construction. The new law preparation is in progress and important amendments are expected.

REFERENCES

- Demirel, Z., (2000), "Village Renewal Implementation in Condition of Turkey, Bergama-Kadıköy Case Study", Symposium of Rural Land Arrangements and Land Consolidations, Ankara, Turkey.
- Demirel, Z., Gür, M. (2001)"The Rural Structure and Problems of Turkey Related To Rural Land Arrangement", Fourth International Symposium "Turkish-German Joint Geodetic Days", Vol. II (827-834), Berlin-Germany
- Gür, M., (2001), "A General Approach of Urban and Rural Settlement Arrangement", Yildiz Technical University, Institute of Science and Technology, Master Thesis, Istanbul
- Land Consolidation Data of General Directorate Of Rural Services of Year 2000 (2001)
- Data of The General Directory of Agriculture Reform of Year 2000 (2001)