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*Front cover photography:* Agriculture plays an important role in both protecting and developing farmland and is an important factor facilitating development of other sectors (photograph: Matej Lipar).

*Fotografija na naslovnici:* Kmetijstvo ima pomembno vlogo pri varovanju in razvoju kmetijskih zemljišč in je pomemben dejavnik tudi pri razvoju drugih sektorjev (fotografija: Matej Lipar).

# CONFLICTS BETWEEN LEGAL POLICY AND RURAL AREA MANAGEMENT IN POLAND

Iwona Markuszewska



IWONA MARKUSZEWSKA

Agricultural landscape, the environs of Poznań.

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## **Conflicts between legal policy and rural area management in Poland**

**ABSTRACT:** This paper refers to the issue of the damaging consequences of the ongoing rural area transformation in Poland in a dynamically developing economy, with a simultaneous lack of adequate planning tools of countryside management. Lack of strategic documents recognise the importance of rural area development leads to irreversible changes, presented on the basis of the issue of farmland merging and the depletion of farmland resources. As a solution guaranteeing comprehensive rural management, agrarian arrangement plans of communes (AAPC) and agrarian arrangement projects of villages (AAPV) have been proposed.

**KEY WORDS:** rural geography, spatial planning policy, farmland merging, de-farming, agrarian arrangement plans of communes, agrarian arrangement projects of villages, rural area, Poland

## **Neskladje med pravno politiko in upravljanjem podeželja na Poljskem**

**POVZETEK:** Avtorica v članku obravnava problematiko škodljivih posledic trenutne preobrazbe poljskega podeželja, ki se odvija v dinamičnem gospodarstvu ob hkratnem pomanjkanju ustreznih načrtovalskih orodij za upravljanje podeželja. Pomanjkanje strateških dokumentov, pomembnih za razvoj podeželskih območij, povzroča nepopravljive spremembe, ki so v članku predstavljene na podlagi problematike združevanja kmetijskih zemljišč in njihove izgube. Kot rešitev, ki zagotavlja celovito upravljanje podeželja, avtorica predlaga oblikovanje načrtov kmetijske ureditve občin in projektov kmetijske ureditve vasi.

**KLJUČNE BESEDE:** geografija podeželja, politika urejanja prostora, združevanje kmetijskih zemljišč, deagrarizacija, načrti kmetijske ureditve občin, projekti kmetijske ureditve vasi, podeželje, Poljska

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# 1 Introduction

In Central and Eastern European countries, since the beginning of the 90's of the past century, when instruments of market economy were set in motion, an enormous change in the use of agricultural areas has been observed. Unfortunately, in most cases, improper practices in the decision-making process about spatial planning are observed. However, it must be explained that a strong desire for land consumption expressed by individuals has enforced legislators to create laws enabling rapid economic development.

This situation can be observed in Poland. When it comes to countryside development, in Poland the legal guidelines of spatial planning leave much to be desired (Markuszevska 2012). Although agricultural matters are included in many strategies (Figure 1), no planning documents related to agrarian space constantly operated by farmers have yet been elaborated. Yet, not only elaborations about the agronomic utilisation of rural areas are missing, but also documents concerning village renewal and rural heritage protection. In addition, existing legal acts protect poorly against the irretrievable decline of soil resources whilst also not supporting agriculture modernisation in the scope of the improvement of agrarian structure. Not to mention the lack of any legal policy system of rural area development, integrating the various levels of administrative bodies responsible for the decision-making process.

This paper discusses the problem of the faulty planning and management system of rural areas in Poland. The aim was to present conflicts between faulty legal policy and negative changes in rural area being a result of implementation of that legislation. On the one hand, remark was concentrated on the issue of the fragmentation of the agrarian structure. On the other hand, attention was put on the de-farming phenomenon. Finally, suggestions to improve decision-making policies in the field of the management of rural area have been proposed.

## 2 Methods

The faulty planning system of rural areas development, with respects to weaknesses of the legal ground as well as the competence divergence of administrative bodies, is presented in this paper. Several major questions related to rural landscape dynamics and management were identified and were kept as the centre of reflection and comparison:

- What are the weak points of rural area development at a local level?
- To what extent does the existing spatial planning and management framework take into account the aspect of agrarian production space modernisation as well as farmland resources protection?
- Are there any opportunities for slowing down the rate of the negative consequences of controversial policy implementation?

The data were gathered from legislation (legal acts referring to the procedures for farmland merging and de-farming) and statistics (describing changes in farmland merging since 1945 as well as agricultural land de-farming since 1990). Open interviews with 20 officials, responsible for local and regional planning, were conducted. Additionally, in order to describe the wider context of the research, branch literature was also taken into consideration. As a result, several solutions for improving the current situation in the planning and management of rural areas have been presented.

## 3 Results

### 3.1 Stewardship of production space in relation to farmland merging

When considering the improvement of agriculture efficiency, one of the rural policy guidelines and an aspiration of the Polish government since the system's transformation, there has been a total rebuild of the agrarian structure. Agrarian structure, defined as a state of agricultural production units, is classified into different groups according to land ownership and land fragmentation.

In Poland, a characteristic feature of agrarian production space is land fragmentation, often referred to patchwork fields. Patchwork fields mean that farmland of one ownership is split up into a large number of tiny plots scattered between varied landowners with a complicated arrangement. Land fragmentation is described by the plot distribution pattern, this could be: a small average-sized farm (7 ha), a relatively

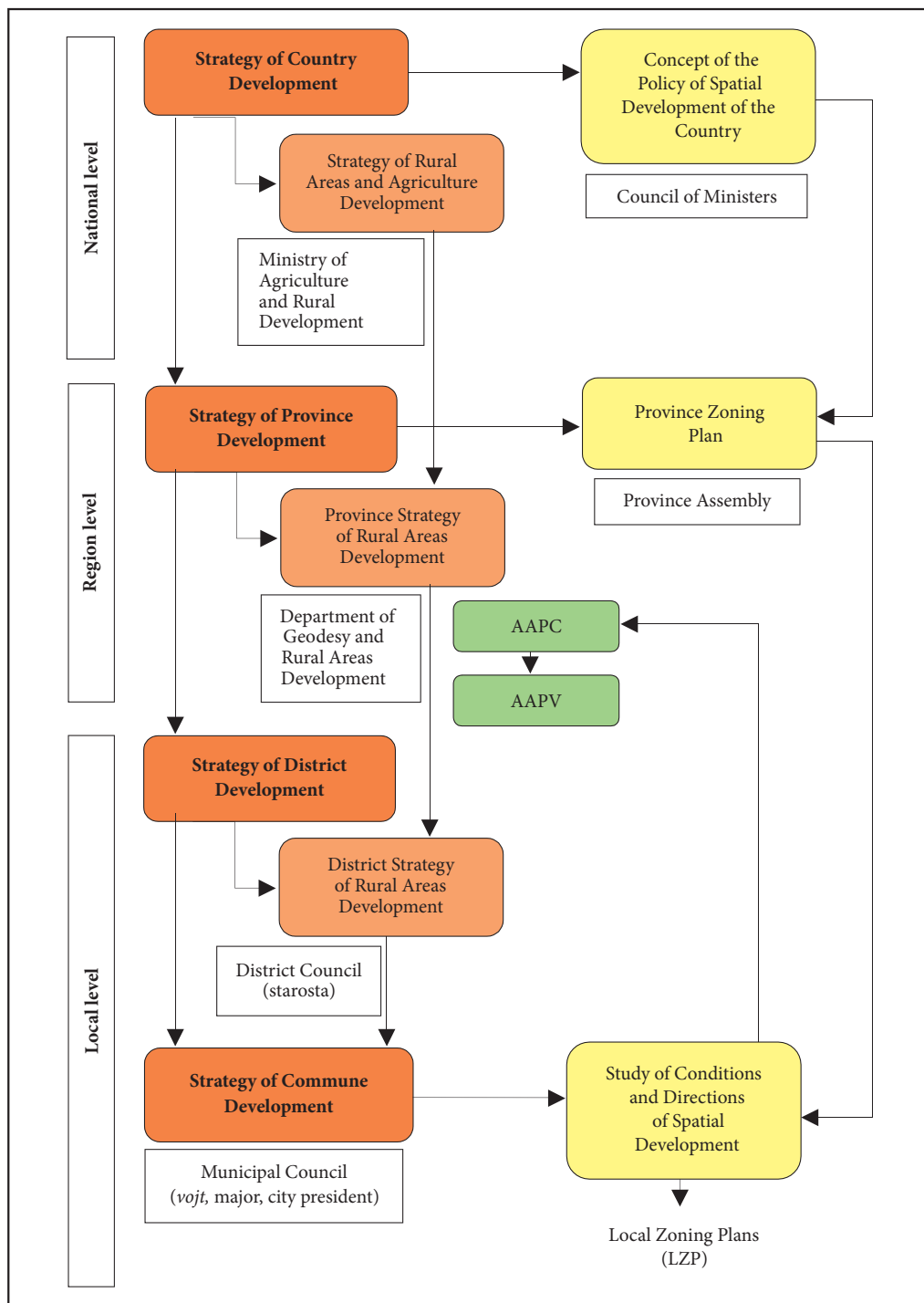


Figure 1: Selected strategic and planning documents drawn up by different administrative bodies. Strategic documents are marked by red colours, whereas planning documents in yellow.

high number of land plots per farm (8 pieces) and a small average size of individual plot (0.6 ha). Additionally, the distance between the farm and the cultivated fields can be considerably remote, sometimes reaching up to 3 and even 4 km (Woch 2006; Woch et al. 2011). As for spatial distribution, the most unfavourable agrarian structure occurs in south-eastern Poland. However, also in other parts of the country this problematic field mosaic contributes to a serious cultivation inconvenience.

In a situation like this, the carrying out of land consolidation can solve the farmland fragmentation issue. Additionally, comprehensive land consolidation includes not only the merging and exchanging of arable land, but also the modernization of rural area. For this reason, farmland consolidation can be a great tool for both, production space upgrading and countryside renewal. But even though these profound changes lead to rural area modernisation, farmland merging is conducted very rarely in Poland.

Analysing 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 560,000 hectares of agricultural land. Until 1980, increased activity was observed – 3,676,000 hectares of land were merged. In the years 1981–1988, consolidation activities decreased noticeably, and during that period only 444,000 hectares of land were merged. Further, through the economic transformation, between 1989 and 1998, a steady decline in land consolidation was still evident, as only 228,000 hectares of farmland were merged.

There are several reasons explaining the decreasing interest in land consolidation work, among which the most important are: adverse legislation, declining funds and farmers unwillingness to cooperate (Woch 2006; Wierzchowski 2007; Markuszewska 2013). Nevertheless, for a better understanding of the weaknesses of the land consolidation process, legislation review has been undertaken.

First of all, the competences of the public administration are divided between various tiers; some of the responsibilities of land consolidation are under local authorities and yet others are under regional ones (Act on Land Consolidation and Exchange – *Ustawa o scalaniu* ... 1982; Act on Local Government – *Ustawa o samorządzie* ... 1990; Act on Province Government – *Ustawa o samorządzie* ... 1998). For example, head of the district government (Pl. *Starosta*) at landowners' formal request, issues a positive opinion on farmland re-parcelling and simultaneously prepares a decision on the initiation of the land consolidation process. Later, a land consolidation project is drawn up by the surveyor-designer from the province government. Despite the fact that the project is drafted by the surveyor-designer, it is head of the district government who is entrusted to approve the document. Additionally, the discrepancy in the administrative competences has not only a detrimental effect on legal processes, but also makes civil servants less involved in the farmland merging procedures.

Before the public administration reform in 1998, the authorisation to conduct farmland merging procedures was at commune level, whereas after the reform this process is controlled by district and provincial levels (Act on Regulations Implementing the Act Reforming Public Administration – *Ustawa-Przepisy* ... 1998). As a result the commune authorities have been disregarded, which should not happen, because there are commune officers who are responsible for planning and development at the landscape level, and farmland merging is a vital aspect of that process.

Another aspect is the separation of merging-exchanging work from post-re-parcelling development. As a result, merging-exchanging work, based on a land consolidation project, concerns land parcel consolidation and relocation, is fully completed by the geodesy department of the province government. In turn, post-consolidation development, including road construction, drainage ditch implementation is under the supervision of the head of the district government who selects a contractor during the tendering procedure.

On the other hand, currently in force Act on Land Consolidation and Exchange (*Ustawa o scalaniu* ... 1982) gives a too powerful role to the land consolidation committee, represented mostly by landowners. For example, the decisions of the head of the district government can be undermined at any time and procedures or decisions may be easily prosecuted by the administrative court. Before 1982, when that law was implemented, these activities were limited. Even the pre-war regulatory Act on Land Consolidation (*Ustawa o scalaniu* ... 1923) restricted the power of the merging committee when it slowed down the merging work. In such a case it was possible to dismiss all members and to appoint new ones collected from the land consolidation authorities not landowners. Nowadays it is impossible, even if the advisory group exceeds its power.

Furthermore, the provisions of the Act allow for the temporary suspension or even abandonment of the merging activity at the request of only one landowner, regardless of the progress of the work, and sur-



prisingly, that person is not fined for any investments already executed. In comparison, again with reference to the pre-war act, Act on Land Consolidation (*Ustawa o scalaniu ... 1982*), which imposed the following limitation: interruption of any ongoing land consolidation processes was only possible if the application was submitted by two-thirds of the participants, and only the persons responsible for the procedure deferment would bear the cost of any work previously conducted.

### 3.2 Farmland resources hazard with regard to urban sprawl

According to the Act on Agricultural and Forest Land Protection (*Ustawa o ochronie ... 1995*), farmland is subjected to legal protection, which means that the use of farmland for non-agricultural purposes is generally restricted. Nevertheless, in certain situations the Act enables de-farming, which means that agricultural land can be intended for non-agricultural purposes. However, overuse of that regulation can lead to the depletion of farmland resources.

For a better understanding of the negative consequences of de-farming process, a brief review of the legislation is given below.

In 1966 the first legal act Resolution of the Ministers' Council on Agricultural Land Protection (*Rozporządzenie ... 1966*) came into force. One of the principles emphasised that, »for non-agricultural purposes« can only be assigned to the poorest soils (5th or 6th classes). Although, good farmland quality (1st–4th classes) could be de-farmed, but only when there was a lack of substitute soils in a given area or when the non-farming allocation was justified for particularly important national reasons.

However, shortly afterwards, the legislation required streamlining and therefore new legal acts were introduced: Act on Agricultural and Forest Land Protection (*Ustawa o ochronie ... 1971*), Act on Land Consolidation and Exchange (*Ustawa o scalaniu ... 1982*). Here the limitation of agricultural land allocation for non-farming purposes was much more restrictive, and additionally, the power over decisions to be taken was given to the province governor (Pl. *Wojewoda*), with the objective of discouraging parties from seeking to obtain de-farming decision.

The presently enforced law, approved in 1995 – the Act on Agricultural and Forest Land Protection (*Ustawa o ochronie ... 1995*), maintained most of the previously established regulations, and additionally, imposed the obligation of the marking of non-agricultural land allocation in local zoning plans. Moreover, in the cases of 1st–4th class soils being de-farmed, the Minister of Rural Development was given authority. The amendment of 2008 made the Act more liberal and washed out all previously existing limitations. First of all, for issuing the administrative decision on de-farming, the Marshal from the provincial government was given entitlement. Secondly, only in relation to the de-farming of the 1st–3rd classes of agricultural land, was the obligation to obtain a decision required, and only when the area exceeded 0.5 hectare. This means that such approval was unnecessary in the cases of farmland which 4th–6th class soils, regardless of the size of the area proposed to be de-farmed. Moreover, no permission was requisite for the non-agricultural use of the 1st–3rd classes of farmlands located within administrative boundaries of towns. Finally, the obligation to move the humus layer of 1st–4th soil classes has been withdrawn. Undoubtedly, this policy relaxation has worked against the protection of farmland resources. For example, simply taking into account the area of farmland in towns, theoretically 1 million hectares of agricultural land has supposed to have been irreversibly lost.

This harmfully operated legal regulation has been limited according to the newest alteration of 2013. The new rules indicate that only the Mayor (Pl. *Wójt*) is authorised to submit an application for de-farming, naturally on the request of landowners (previously it was directly under landowners' power). Furthermore, in relation to the de-farming of agricultural lands of 1st–3rd classes, only the Minister of rural development is authorised to take the decision (previously, the power was under local government). What is also important, according to the Act on Spatial Planning and Development (*Ustawa o planowaniu ... 2003*) in order to obtain de-farming permission for future building investments, several requirements must be fulfilled, such as: access to public roads, access to water infrastructure and electricity network, and sometimes sewage and the gas system.

According to statistical data, in the years 1990–1994, between 5,000 and 7,000 hectares of agricultural land were de-farmed each year. In the next period, between 1995 and 2003, the intensity of this process slightly decreased, because every year between 1,000 and 3,000 hectares were allocated for non-farming purposes. However, in the years 2004–2013 the activity increased: from 3,000 to more than 5,000 hectares

were de-farmed annually. Another disturbing matter is the quality of de-farmed soils. The best quality of soils, those including 1st–3rd classes, covers about 26%, however, the first two classes take only 3%. Even if the legal provisions emphasize that only wastelands or the poorest soils should be designated for non-agricultural purposes, the conducted analysis revealed that since 1995 the greatest percentage of de-farmed soils covered the richest soils (Environment 2013).

The loss of farmland is particularly evident in the range of influence of urban areas, where on the one hand, there is an easy access to »fresh land«, and on the other hand, easy access to urban services.

### 3.3 Rural area management – searching for a good solution in a long-term perspective

The above studies revealed the strong need to improve the existing controversial body of laws as well as to elaborate documents relating to the management of agrarian space, with the emphasis put on comprehensive rural area development, tailor-made for social demands. As for documentation, agrarian arrangement plans of communes (AAPC) and agrarian arrangement projects of villages (AAPV) can fulfil that requirement. However, AAPC and AAPV are kinds of so-called »economic programs«, not »planning documents«, which excludes them from the decision-making process of spatial planning. Also, there is no legal obligation to draw up these documents. The underestimation of AAPC or AAPV is proved by the fact that only in one province, the Lower Silesia Province, did the regional government decide to implement agrarian arrangement plans of communes for practical actions to deal with the issue of farmland fragmentation.

With regards to the agrarian arrangement plan of commune, the main goals are: the provision of comprehensive and multifunctional development of rural areas, the boosting of farms' effectiveness and improvement of general living conditions, all this with the simultaneous protection of the natural environment and the preservation of cultural heritage. Accordingly, AAPC is a document clarifying the current stage of a rural area development based on its existing natural potential, people resources, cultural values, as well as presenting scenarios for future changes. The range of agrarian arrangement work proposed to be implemented in the AAPC, includes in particular:

- improvement of the plot distribution pattern by the reduction of land fragmentation,
- modernization of the agrarian structure by the construction of new infrastructure networks including between-fields roads, drainage ditches,
- an increase in soil productivity by conducting anti-erosion activities and farmland reclamation,
- preservation of landscape by the designation of protected areas and forestation of poor quality farmland,
- implementation of non-farming purposes by the designation of land for the development of new residential, service purposes,
- revitalization of village by the renewal of existing buildings, implementation of public utility infrastructure, road renovation and plumbing system installation.

Among the information related to the characterisation of a plot distribution pattern, the subsequent data are given: the number of parcels in individual farms, size of the individual parcels, and distance between the farmstead and the arable land. Due to this fact, AAPC stands out from other local strategic documents as a useful tool in the assessment of land consolidation demand (Analiza zapotrzebowania ... 2010). The guidelines of the AAPC constitute directives on the drafting of the AAPV. It is suggested that the most beneficial way of AAPV utilisation can be the drawing up of Projects for farmland merging and Projects for village renewal.

During the procedure of AAPC and AAPV elaboration, an important role is played by the local community; village leaders and farmers as well as the commune council. This way of proceeding, involving all parts of the decision-making process, allows for the working out of commonly accepted findings, which then streamlines the implementation of the agrarian arrangement work.

As for the practical application of AAPC, assessment of land consolidation demand in the Lower Silesia Province has been conducted. Based on the AAPC, several elaborations have been prepared by the Department of Geodesy and Cartography (the unit of province government), among which, the most important are: 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 land consolidation objects (Analiza zapotrzebowania ... 2010). It is important to emphasise that for the creation of a proper base for information

flow, the Analysis among all sides (landowners and administrative bodies of local and regional governments) involved in land consolidation process, has been disseminated (Markuszewska 2013).

## 4 Discussion

The paper presents the conflicts between legal policy and rural area management and development in the context of the failure of farmland merging and the depletion of farmland resources in Poland. However, this situation is comparable to other countries of Central and Eastern Europe. The land fragmentation issue in Central and Eastern Europe has been widely discussed, for example by van Dijk (2003; 2007), Pasakarnis et al. (2013), King and Burton (1982). Other authors focused on the problem of the degree of fragmentation of agricultural land, which is a big obstacle to the development of modern farming as well as, like similarly in this paper, putting the emphasis on the complicated procedures of farmland merging and the role of the comprehensive approach to the land consolidation process (Kabat and Hagedorn 1997; Sarris et al. 1999, Voltr 2000; Skalenicka and Salek 2008; Vijulie et al. 2012). On the other hand, ongoing urban sprawl and intensive urbanization of rural areas lead to the depletion of farmland resources, which in respect to Central and Eastern European countries should raise particular interest, bearing in mind the role of agriculture in the national economies. This environmental harmful consequence, resulting from unregulated legal policy in many of the post-communist countries of this region of Europe, in several papers has been stressed. It is worth mentioning several examples: Matthew (2000), Hirt (2008), Łowicki (2008), Bălteanu and Popovici (2010), Suditu (2012).

## 5 Conclusion

On the basis of findings discussed in this paper, it has been proved that the problematical situation with management and development of rural areas in Poland is affected, inter alia, by the following reasons: a lack of reasonable legal tools for rural area management, a lack of a harmonised policy with a comprehensive approach to the multifunctional development of rural areas, a lack of clarified goals of rural policy that is expected to be achieved by local and regional authorities, and a lack of long-term perspective in the decision-making processes on rural area development. All these aspects lead to disastrous environmental and economic consequences, such as for example, the loss of non-renewable soil resources, rural traditional landscape degradation and rising costs of living. However, a lack of strategic documents focusing on areas where agrarian production is the main purpose of farming development, means that the AAPC and AAPV can gain favour as complementary documents to existing ones, which has been proved above.

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