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**PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT
INSTITUCIONET E PËRKOHSHME TË VETQEVERISJES
PRIVREMENE INSTITUCIJE SAMOUPRAVLJANJA**

**QEVERIA E KOSOVËS/ MINISTRIA BUJQËSISË, PYLLTARISË DHE ZHVILLIMIT RURAL
VLADA KOSOVA/ MINISTARSTVO POLJOPRIVREDE, SUMARSTVA I RURALNOG RAZVOJA
GOVERNMENT OF KOSOVA/MINISTRY OF AGRICULTURE, FORESTRY AND RURAL
DEVELOPMENT**

**ADMINISTRATIVE INSTRUCTION NO. 35/2006
ON LAND CONSOLIDATION**

**DECEMBER 2006
PRISTINA**



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DEVELOPMENT**

The Minister of the Ministry of Agriculture, Forestry and Rural Development, in accordance with:

Article 5.1 paragraph (n) of UNMIK Regulation No. 2001/9 as of 15 May 2001 on the Constitutional Framework for Provisional Self-Government in Kosovo, article 1.3 paragraph (d) of UNMIK Regulation No. 2001/19 as of 13 September 2001 on the Executive Branch of Provisional Institutions of Self-Government in Kosovo and article 44.2 of the Law No. 02/L-26 on Agricultural Land, as promulgated by UNMIK Regulation No. 2006/37 on the Promulgation of the Law on Agricultural Land adopted by the Assembly of Kosovo, as of 23 June 2006,

For the purpose of implementing the Law on Agricultural Land by specifying the terms, procedures and conditions referring to land consolidation,

Issues the following:

**ADMINISTRATIVE INSTRUCTION NO. 35/2006
ON LAND CONSOLIDATION**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
General Principles**

1.1 Land consolidation under this Administrative Instruction shall be carried out through voluntary agreements of exchange or selling and buying between the Participants.

1.2 The agreements become effective through a decision of a Land Consolidation Commission.

1.3 The land consolidation set forth in this Administrative Instruction shall also support the realisation of land consuming Projects by minimising their negative impact from non-agricultural measures in rural areas.

1.4 Agricultural land parcels in the area concerned by a land consolidation project may not be fragmented through the land consolidation.

1.5 The Participants in a Land Consolidation Plan under Article 16 of this Administrative Instruction, may buy more land, than they sell and vice versa.

1.6 All parcels in the final Land Consolidation Plan under Article 16 of this Administrative Instruction shall be secured sufficient access for the owner to whom it is allocated.

Article 2 Definitions

2.1 Beside the definitions included in Article 3 of the Law on Agricultural Land, Law No. 02/L-26, the following words and phrases shall have the following meanings:

- a) **Applicant** – the person, group of persons or legal entity that initiates the proposal for land consolidation.
- b) **Commission** – shall mean Land Consolidation Commission.
- c) **Assembly** – shall mean the person's selected by participants meeting to represent the interests of participants in a agriculture land consolidation project.
- d) **Ministry** – shall mean the Ministry of Agriculture, Forestry and Rural Development.
- e) **Surveyor** – Shall mean the physical person, or legal entity which performs the designing and preparation, cadastral survey and the judicial work of the land consolidation plan.
- f) **Participants** – shall mean the landowners participating in an agricultural land consolidation project.
- g) **Proposal** – a proposal for a land consolidation initiates the procedure for a possible land consolidation project.
- h) **Project** – After the Ministry's approval the proposal becomes a project.
- i) **Plan** – The project becomes a plan when the Surveyor has established the owner situation and the agreements between the participants. The land consolidation plan can be implemented only on decision by the Land Consolidation Commission.
- j) **IPRR**- shall mean Immovable Property Rights Register.

CHAPTER 2
LAND CONSOLIDATION INSTITUTIONS

Article 3
Institutions

The land consolidation shall be carried out in co-operation between the Ministry, the Municipalities, the Land Consolidation Commissions, the Surveyor and the Participants and their Assembly.

Article 4
Responsibilities of the Ministry

4.1 The Ministry shall be responsible for the implementation of land consolidation plans in Kosovo.

4.2 The Ministry can prepare land consolidation plans or assist in the preparation of land consolidation plans.

4.3 The Ministry shall advice and help landowners initiating land consolidation projects.

4.4 The Ministry shall secure that all land consolidation proposals meet the requirements as set forth in article 24.1 and 25 of the Law on Agriculture Land.

4.5 The Ministry shall determine whether a project proposal qualifies under any funding scheme administered by the Ministry and shall advice the applicant about any possible funding.

4.6 The Ministry shall appoint a Commission for each Municipality based on the municipalities' suggestions.

4.7 The Ministry shall advice and instruct the Land Consolidation Commissions on their responsibilities and duties.

4.8 To assume its responsibilities, the Ministry shall establish a land consolidation unit within the Ministry.

4.9 If the Ministry delegates its responsibilities, the applicable provisions on public procurement shall apply.

Article 5
Responsibilities of the Land Consolidation Commission

5.1 The Commission shall review and supervise all land consolidation Projects.

5.2 The Commission shall make the decisions whether to give a land consolidation plan legal effect.

5.3 The decisions of the Commission shall be made in its meetings by simple majority vote.

Article 6 The Land Consolidation Commission

6.1 The Ministry shall appoint a land consolidation Commission for the Municipality concerned when a Proposal for a land consolidation has been approved as set forth in Article 11 of this Administrative Instruction.

6.2 The Commission shall consist of five (5) members:

- a) Three (3) permanent members and their deputies to decide on all land consolidation Projects; and
- b) Two (2) members selected by the Participants Assembly for the individual land consolidation Project in question.

6.3 The Ministry shall appoint the three (3) permanent members and their deputies based on a list of proposed candidates from the Municipality. The members shall be selected based on their qualifications after the following minimum selection criteria:

- a) The chairman of the Commission shall have a law degree, be a barrister and have three (3) years experience in issues of property relations.
- b) One member of the Commission shall be a graduate engineer in geodesy with three (3) years experience in cadastre.
- c) One member shall be an agricultural or a rural planning expert.

6.4 The permanent members and deputies of the Commission shall be appointed for a period of 4 years. This term may be renewed.

6.5 The remaining members of the Commission shall be appointed by the Participants in the land consolidation plan in question as set forth in this Administrative Instruction under Article 9.

6.6 A permanent member shall be represented by the deputy in case of absence.

6.7 The permanent members shall receive a fee for their services. The rates are to be determined and paid by the Ministry.

Article 7 Conflict of Interest

7.1 A permanent member of the Commission shall be excluded from the decision-making and administrative procedures relating to any matter in which he, or an immediate family member of his, has a personal or financial interest.

7.2 Each member is required to disclose all conflicts of interest immediately they arise at any meeting at which the member is present. Any member may supply information about the interests of another member.

7.3 Members may voluntarily exclude themselves from decision-making and administrative procedures if they consider that they may have a conflict of interest.

Article 8 The Surveyor

8.1 The Ministry shall appoint a Surveyor who is responsible for:

- a) Designing the land consolidation plan;
- b) Carrying out the administrative work of the Commission;
- c) Surveying and updating of the cadastre.

8.2 The Surveyor shall carry out the procedures entrusted to the Commission in order to prepare its decisions. In particular, the Surveyor shall establish the factual situation in the field, create a map of the present situation, verify underlying property rights and establish the final plan.

8.3 The Surveyor shall report to the Commission on a regular basis about his findings and the progress made.

Article 9 The Participants Assembly

9.1 The Participants Assembly shall act as the contact point between the Surveyor and the Participants.

9.2 The Participants within the plan area as set forth in Article 15 of this Administrative Instruction shall choose amongst themselves at least five (5) representatives forming the Land Consolidation Participants Assembly.

9.3 The Participants shall elect two persons to represent the Participants in the Land Consolidation Commission. The Participants may decide to choose a representative from the local Farmers Association as one of their two members of the Commission.

CHAPTER 3
AGRICULTURE LAND CONSOLIDATION PROCEDURE

Article 10
Land Consolidation Proposal

10.1 An agricultural land consolidation Project shall be proposed to the Ministry. A land consolidation Project may be proposed by the Municipality or the landowners in the area where the land lies.

10.2 The Ministry may on its own initiative prepare a Land Consolidation Proposal.

10.3 The Proposal shall argue the envisaged results, indicate the possible number of Participants within a certain geographical area and if possible comprise a map showing the geographical area in question.

10.4 The proposal shall inform about whether funding from private donors or other sources will be provided.

Article 11
Review of the Proposal

The Ministry shall review the Proposal within two months in order to decide:

- a) Whether it meets requirements set out in the Law on Agricultural Land and this Administrative Instruction;
- b) Whether it is in conformity with the national or local development plan;
- c) Whether it qualifies for the allocation of funds under any funding scheme administered by the Ministry.

Article 12
Approval of the Proposal

12.1 The Ministry shall inform the applicant about its decision:

- a) In case the decision is not to approve the Proposal, the information shall include a justification.
- b) In case the decision is to approve the Proposal, the information shall include:
 - (i) Guidance about any aspects regarding national or local development plans to be adhered to;
 - (ii) The conditions for funding under any funding scheme administered by the Ministry;

(iii) Whether to follow the procedure under Article 13 or Article 14.1 of this Administrative Instruction.

12.2 In case the decision is to approve the Proposal, the Ministry shall establish the Commission if one is not already in session.

Article 13 **Public Discussion of the Land Consolidation Project**

13.1 The Surveyor prepares the Land Consolidation Project for a public discussion.

13.2 The Commission announces the approved Project for public discussion for a period of sixty (60) days for the purpose of gathering comments and suggestions from the public.

13.3 The Project shall be published in the local papers as well as on the municipal display board, inviting the land owners in the area to state interests, comments and suggestions concerning the Land Consolidation Project.

13.4 Any proposal for amendments or comments must be given to the Commission within the time frame stipulated in Article 13.2 of this Administrative Instruction.

Article 14 **Abbreviated Procedure**

14.1 When a Proposal is initiated by land owners the Project shall not be subject to public discussion as otherwise set forth in Article 13. Articles 9, 13 and 15.1 – 15.5 of this Administrative Instruction do not apply in these cases.

14.2 In cases where the Ministry deems it necessary, a project proposal initiated by land owners shall still be subject to public discussion as set forth in Article 16 of this Administrative Instruction.

Article 15 **Public Decision on the Land Consolidation Project**

15.1 By the end of the public discussion period, the Commission shall invite all land owners in the project area to a public meeting to display and decide on the Project.

15.2 This meeting shall be announced in the local papers and on the municipal publication board or other adequate ways no less than eight (8) days prior to the meeting.

15.3 The announcement must describe the reason and objective of the meeting.

15.4 Comments and suggestions from the land owners as set forth in Article 13 of this Administrative Instruction shall be reviewed by the Surveyor who suggests to the Commission whether to include them or not.

15.5 Based on a suggestion from the Surveyor, the land owners decide upon

- a) The boundaries of the Project area, which may include only a rounded part of one or several cadastral zones or some of their parts respectively;
- b) The completion date where all negotiations between the land owners and the Surveyor are finished; and
- c) The date for transfer of ownership.

15.6 Based on an assessment from the Surveyor and the stated interests and comments from the land owners, the Commission shall in the same meeting decide whether to proceed with the Project.

15.7 The decision shall be made with a 2/3 majority based on the number of owners within the Project area.

15.8 The Surveyor shall take minutes of the meeting.

15.9 If the Commission decides to proceed with the project, the Participants Assembly shall be appointed as stated above in Article 9 of this Administrative Instruction.

Article 16

Designing the Land Consolidation Plan

16.1 The Surveyor shall interview all the landowners in the Project area in order to:

- a) Establish the ownership situation of the parcels within the Project area;
- b) Identify the owners that are interested in participating in the project and their individual preferences.

16.2 Upon reaching agreement on purchase and/or sale of land and the related terms hereof, each Participant shall sign an agreement irrevocably offering to participate in the land consolidation.

16.3 The Agreement shall clearly state that the offer expires if the plan is not accepted by the Commission by the pre-determined date of transfer of ownership as set forth in Article 15.5 of this Administrative Instruction.

16.4 The Agreement shall also comprise:

- a) The name, ID-number and address of the Participant;
- b) The identity of the Participants property;
- c) The identification and approximate size of the parcels or parts of parcels concerned;
- d) The agreed prices of land which are changing ownership;

- e) Any agreed sums to be paid by or to the Participants;
- f) The day of deposit or guarantee of any net purchase sum;
- g) The day of payment and day of transfer of ownership;
- h) Any particular conditions concerning the transaction of land;
- i) Any particular conditions about removal of crops;
- j) Signature of the registered owner;
- k) Signature of spouse.

Each Participant shall obtain a copy of the signed agreement.

16.5 All Participants shall accept that indications of area sizes are approximate and final cadastral survey may only take place after the completion date.

16.6 In case the design period reveals a greater interest, the Land Consolidation Project may be enlarged and split into several land consolidation projects to be finished successively.

16.7 In case the design period reveals a greater interest the pre-determined completion date as set forth in Article 15.5 of this Administrative Instruction may be postponed if all participants agree upon this.

16.8 Based on the interviews and agreements the Surveyor shall prepare the Land Consolidation Plan according to Article 18 of this Administrative Instruction.

Article 17

Procedure for Clarification of Ownership

17.1 When establishing the situation prior to the implementation of the land consolidation plan the actual ownership situation in the areas involved shall be clarified and established by the Commission.

17.2 The Surveyor shall deliver the relevant statements and documents to the Commission:

- a) Statement from the relevant persons agreeing to non-registered changes of ownership;
- b) Statement of neighbouring land owners agreeing on the boundaries as they appear on the ground.

17.3 The clarified ownership situation shall be on public display for a period of 60 days in order to reveal any interest from third parties.

17.4 If the clarified ownership situation is not challenged within this period, the land consolidation plan shall proceed.

17.5 If the clarified ownership situation is challenged by a third party, the Surveyor shall try to negotiate a solution between the involved parties. If no solution can be reached through a voluntary agreement, the area in question shall not be part of the land consolidation plan.

Article 18 Land Consolidation Plan

The Land Consolidation Plan must comprise:

- a) A description of the situation prior to and after the implementation of the Land Consolidation;
- b) One map showing the ownership situation before the Land Consolidation Plan;
- c) One map showing the situation after the Land Consolidation Plan;
- d) All the signed agreements with the Participants;
- e) Cadastral data, lists of ownership and ownership rights, rights of use, rights of third parties etc. for the parcels concerned before and after.

Article 19 Payments

19.1 In order to handle payments to and from the Participants, the Commission shall open a Trust Account in a local Bank.

19.2 A guarantee shall be issued to the Commission when a net purchase sum exceeds the amount of 1,000 Euro.

19.3 All payments to and from the Participants shall be paid through the Trust Account as set forth in Article 19.1. The account shall be administered by the Surveyor. Revenues shall only be paid in accordance with a decision from the Commission as set forth in Article 23 of this Administrative Instruction

19.4 All bank guarantees or deposits of payments from the Participants shall be completed two months prior to the pre-determined day of transfer of ownership.

19.5 All revenues to the Participants must be paid upon the pre-determined day of transfer of ownership agreed upon in the meeting set forth in Article 15.5, b) of this Administrative Instruction

Article 20

Mortgage Issues

20.1 In the course of establishing the ownership situation as set forth in Article 16 of this Administrative Instruction, the Surveyor shall verify whether land included in the land consolidation plan is mortgaged.

20.2 Land which is mortgaged according to the provisions under the Law on Mortgage shall only be included in a land consolidation plan after the Surveyor has obtained consent from the respective banks or mortgagees.

Article 21

Valuation

21.1 Exchange of land as set forth in this Administrative Instruction is based on prices as perceived and agreed upon by the participants.

21.2 The parties in each exchange agreement shall agree on the price of the exchanged parcel of land, before the parcel can be part of the land consolidation plan.

21.3 The settling of price levels can be supported by a systematic comparison of the types of land to be exchanged in the land consolidation plan. The valuation shall be done by the participants together with the Surveyor and/or agricultural specialists.

Article 22

Proposal for Final Decision

22.1 When the Surveyor has completed negotiations with the Participants and designed the plan, the Surveyor makes a Proposal for the Commission's decision on implementing the Plan.

22.2 The Proposal for the Commission's decision shall:

- a) Describe how the plan fulfils the purposes described in Article 1 of this Administrative Instruction;
- b) Describe all changes of ownership;
- c) Describe the handling of other real rights;
- d) State the amounts to be paid by or to the Participants;
- e) Describe the handling of mortgage rights;
- f) Comprise all possession lists etc;
- g) Comprise maps showing the situation before and after the implementation of the land consolidation project;

h) State the needed transaction costs to be paid.

22.3 The Proposal shall be submitted to the members of the Commission no later than one month prior to the date of transfer of ownership in order for them to prepare for the final decision as set forth in Article 23 of this Administrative Instruction

Article 23 The Final Decision

23.1 No later than two weeks before the pre-determined date of exchange of ownership, the Commission - supported by the Surveyor - presents the final plan for the Participants in a public meeting.

23.2 The Participants shall be invited in writing and by a note on the municipal information board or in other adequate ways no less than 8 days in advance of the meeting.

23.3 The Participants are invited to come forth in the meeting in case they might have any complaints regarding the Plan.

23.4 The final decision does however not require a forum.

23.5 The Commission can in the meeting decide on any complaints submitted by the land owners regarding the plan. The Commission's decisions are final.

23.6 At the end of the meeting the Commission shall decide whether to accept the proposed plan for implementation making all the Agreements binding or whether to suggest changes to the plan.

23.7 When accepting the plan the Commission shall request the Surveyor to carry out all surveying tasks needed in order to implement the plan.

23.8 The Commissions decision shall be informed to the Participants in writing before the pre-determined day of transfer of ownership. When accepting a plan for implementation it shall clearly be stated in the letter that all agreements between the Participants have been accepted and will enter into force as from the pre-determined day.

Article 24 Finalization of a Land Consolidation Plan

24.1 The Commissions decision on implementation shall be registered with the authorised municipal court as a preliminary entry until the cadastral survey has been carried out. The same applies for the IPRR.

24.2 Following the decision and request in Article 23 of this Administrative Instruction, the surveyor shall perform all necessary surveying and update of the land cadastre to implement the land consolidation plan.

24.3 The Surveyor shall perform all tasks needed for the final registration of the land consolidation plan:

- a) Registration of new servitudes in accordance with the agreements;
- b) Amendment and/or void of old servitudes;
- c) Registration in IPRR and other public records;
- d) Registration in cadastre.

24.4 When all public records have been updated, the Participants shall receive a copy of the IPRR stating the new factual situation governing on their land.

Article 25 Appeal Procedure

25.1 Decisions made by the Land Consolidation Commission according to Article 23 of this Administrative Instruction are final and are not subject to appeal.

25.2 Appeals on other issues or concerning complaints which the Commission did not approve shall be filed with the Minister for Agriculture within 15 days from the day of receipt of the decision by the Commission.

25.3 The Municipal Court where the land consolidation area is situated is the competent court in matters concerning the Commissions decisions.

CHAPTER 4 FINAL PROVISIONS

Article 26 Internal Land Consolidation Guidelines

The Minister shall have the authority to issue internal land consolidation guidelines. These guidelines shall specify the internal working procedure of the land consolidation and shall have no binding effect on third parties.

Article 27 Forest and Forest Land

The provisions of this Administrative Instruction shall also be enforced for consolidations of forest and forest lands.

Article 28
Entry into Force

This Administrative Instruction shall enter into force on the day of its signature.

Date: 27 December 2006

Deputy Minister
of the Ministry of Agriculture, Forestry
and Rural Development
Tomë Hajdaraj
