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Land Valuation Methods in Land Consolidation Proceedings vs. Implementation of the Purpose of Land Consolidation as Specified in the Land Consolidation and Exchange Act of 1982 in Rural Poland*

Metody szacowania gruntów w postępowaniu scaleniowym a realizacja celu scalenia określonego w ustawie o scalaniu i wymianie gruntów z 1982 r. w Polsce

ABSTRACT

Correct spatial structure of agricultural land is one of the key conditions of efficient farming and enables the use of advanced farming technologies. In Poland, land consolidation is regulated by the Land Consolidation and Exchange Act of 1982 and is intended to improve the spatial structure of farmland. Land valuation is a key part of this, as it determines the compensation that is offered to stakeholders whose lands are diminished in land consolidation. However, in Poland, various land valuation methods are used. The article examines relevant documents obtained from all county offices (starosties) involved in consolidations in 2017–2020, such as minutes of meetings of land consolidation participants and their resolutions on adopting land valuation principles. The analysis reveals that the current land valuation methods in the consolidation process do not ensure the achievement of the main aim of land consolidation, which is to provide better conditions for farming by way of

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improving the spatial structure of farmland. This is primarily because the land valuation methods employed value land below current market prices. Based on this finding, some legal amendments are proposed related to land valuation that are more suited to the needs of the land consolidation process. The desirable modifications include, among other things, rejecting the decisive role of public bodies to the benefit of professional valuation done by registered property appraisers. In this regard, two variants of amendments to Article 11 of the Land Consolidation and Exchange Act are proposed.

Keywords: land consolidation; land valuation; spatial structure; Land Consolidation and Exchange Act

INTRODUCTION

Correct spatial structure of farmland is a key factor of farm productivity and makes it possible to take advantage of the latest farming technologies. For farm producers, not only is the total size of their land important, but also the number, shape, and arrangement of buildings present on the land. Ineffective spatial structure is often a major obstacle to modernization of farm production and its adjustment to changing natural conditions and market (economic) fluctuations.[1] Land consolidation procedures are a crucial aspect of ensuring effective spatial structure of farmland. Within these procedures, land valuation is an important part of ensuring that stakeholders are engaged with the process and that it is conducted fairly. In what follows, I first present an overview of land consolidation and land valuation procedures in Poland and Europe, before providing a detailed analysis of land valuation methods in Poland and how they can be improved.

The question of land consolidation in Poland is governed by the Act of 26 March 1982 on land consolidation and exchange.[2] Land consolidation applies only to areas earmarked for farming and forestry in local land use plans. According to Article 1 LCEA, land consolidation is the exchange of fragmented pieces of land or badly configured plots which belong to various owners and are located in a certain area, in order to provide better conditions for agricultural and forestry management. This is achieved by way of improving the spatial structure of farmland, forests, and forest land; attaining a more rational distribution of plots; and adjusting property boundaries to drainage systems, roads, and landscape features.[3] Land consolidation does not apply to land used for mineral extraction or by other industrial plants, areas where historical and architectural objects are located, natural reserves, land under fishery management, or areas used for special purposes (Article 2 (2) LCEA).

[1] A. Zieliński, *Scalanie i wymiana gruntów*, [in:] *Prawo rolne*, ed. A. Stelmachowski, Warszawa 2009, p. 263.

[2] Consolidated text, Journal of Laws 2018, item 908, as amended, hereinafter: LCEA; judgment of the Constitutional Tribunal of 18 April 2019, SK 21/17, Journal of Laws 2019, item 861.

[3] A. Zieliński, *op. cit*., p. 263.

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It is important to note that land consolidation projects should conform with local zoning plans. We must, therefore, assume that the consolidation process needs to integrate the whole range of mutually related land management, administrative, and planning works. The presence of these provisions in the LCEA is related to the changing role and importance of both agriculture and rural areas. The latter are increasingly becoming merely places of residence that attract investment; people living in the countryside today are not necessarily farmers. This new function of rural areas (at least in Poland) has been formally reflected in the land consolidation law which requires the inclusion of land use plans in all consolidation projects, although this solution seems insufficient for the comprehensive rearrangement of rural areas.[4]

In many European countries, land consolidation is directly or indirectly linked with legislation related to land use, building law, environmental law, nature protection law, and regulations related to agriculture, forestry, roads, water management, and expropriations.[5] In Europe, land consolidation is also perceived as an instrument of controlled reduction of farm production and of increasing farm efficiency by reducing farmers' costs. This is why in Europe social, ecological, and cultural components have been added to the list of goals to be reached by land consolidation. As legislation evolved, especially in Europe, traditional land consolidation processes have gradually become multi-dimensional developments of rural areas, often incorporating additional benefits such as infrastructure upgrading, strengthening of landscape and nature protection, and implementation of various projects in public recreational areas.[6] Similar detailed goals have also been put forward in Poland, including the separation of land plots that are secured for technical and social infrastructure development as part of the consolidation process (without expropriations). This process involves: ensuring space for waste neutralization and water treatment (e.g., farm machinery cleaning, neutralization of plant protection products, waste recycling stations, including the storage and use of livestock manure); providing rational spatial frameworks for the process of enlarging the country's forest area by defining farm-forest boundaries; and preparation of the newly-separated plots for rational agrotechnical works, such as liquidation of redundant hedgerows and roads or re-cultivation to allow mechanical farming.[7] Attention is also given to the need to strengthen landscape protection and the communication of this need to the

[4] *Ibidem*, pp. 263–264.

[5] F.J. Meuser, *Europäische Fachtagung Flurbereinigung im Jahre 1988 – Analyse der Ergebnisse*, "Lehrstuhl für Bodenordnung und Landentwicklung, Technische Universität München" 1992, no. 15, pp. 67–91.

[6] A. Vitikainen, *An Overview of Land Consolidation in Europe*, "Nordic Journal of Surveying and Real Estate Research" 2014, vol. 1(1), p. 27.

[7] Ministerstwo Rolnictwa i Rozwoju Wsi, *Problematyka scaleń gruntów objętych programem rozwoju obszarów wiejskich na lata 2014–2020*, 2018, https://www.powiatprzeworsk.pl/upload/pliki/informator_dla_rolnikow.pdf (access: 10.8.2023), pp. 6–7.

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public so they understand and appreciate the ecological functions of the landscape's non-productive components.[8]

In most European countries, the land consolidation process is an administrative procedure closed by the issuing of a decision. Land consolidation at the central level usually falls within the competence of the government ministry responsible for agriculture and forestry. At the local level, it falls within the competence of local and regional governments.[9] The land consolidation process in Poland is an administrative procedure conducted by the head of the district (starost) as part of the government administration's activities, financed by the central budget (and other public funds defined in Article 3 (5) and (6) LCEA) while the consolidation and exchange works are coordinated and actually carried out by the provincial (voivodship) government (Article 3 (4) LCEA). The starost is also the authority which makes the necessary decisions in these procedures. Their decision-making responsibilities include commencing procedures (this decision is appealable), refusing to start procedures, or approving a submitted land consolidation and exchange project.

Under the LCEA, consolidation procedures may be initiated by a majority of land owners in the area of a planned consolidation or by owners who hold land with a total area larger than half the area covered by the planned consolidation project (Article 3 (2) LCEA). They can also be initiated *ex officio* in areas defined in Article 4 (1) to (3) LCEA, after obtaining an opinion from the village council and from the farmers' social and professional organizations operating in the village. Developed land may be consolidated only on request of its owner, if the owner demolishes or otherwise removes these structures within an agreed time, or after they agree cash or in-kind compensation for the value of the structures (Article 2 (3) LCEA).

Other European countries adopt one of two land consolidation models: Austria, Finland, Germany, and Sweden use the "cadastral surveyor model", whereas Belgium, France, the Netherlands, Portugal, and Switzerland use the "committee model". In the cadastral surveyor model, a surveyor nominated by local land consolidation authorities is responsible for preparing consolidation projects. In the committee model, this responsibility lies with a panel committee. The committee is appointed by the competent government minister, a local government body, or the local land consolidation authorities. In some countries, such committees include representatives of farmland owners, local authorities, and public organizations. Both models allow expert participation in the consolidation process.[10]

[8] R. Włodarczyk-Marciniak, P. Frankiewicz, K. Krauze, *Socio-Cultural Valuation of Polish Agricultural Landscape Components by Farmers and Its Consequences*, "Journal of Rural Studies" 2020, vol. 74, pp. 190–200.

[9] A. Vitkainen, *op. cit.*, p. 27.

[10] See F.J. Meuser, *op. cit.*, pp. 92–102; A. Vitikainen, *op. cit*.

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Both these models are incorporated into Polish land consolidation procedure. Although procedures are conducted by local administration authorities (starost), a surveyor authorized by the starost plans the consolidation process, puts a value on the land to be consolidated, and develops the project with assistance from a starost-appointed advisory committee. The role of consolidation participants is also important in the entire land consolidation procedure. According to Article 9 (1) LCEA, whenever the number of consolidation participants is greater than 10, the consolidation process must include a board comprising 3–12 members who are elected and dismissed by consolidation stakeholders from each village involved in the procedure. This board is elected at the meeting of stakeholders summoned by the starost and it only plays an advisory role. Similarly, land consolidation procedures in France, Germany, and the Netherlands include various bodies elected from among the farmland owners, which have varying degrees of involvement in land valuation and development and implementation of land consolidation projects.[11] In Polish consolidation procedures, its participants adopt resolutions which define the principles of land valuation and accept the land valuation performed, serve as an advisory body in the valuation of plots to be consolidated, and make objections to the planned consolidation or exchange developed by the appointed surveyor (committee), which are then solved by the starost who makes his decision after consulting the committee (Article 11 (1), Article 13 (1), Article 10, and Article 24 LCEA). A committee appointed on the grounds of Article 10 (1) LCEA includes: 1) all participants involved in the consolidation or a consolidation board when more than 10 people are involved; 2) a representative of farmers' public and professional organisations; 3) a representative of the National Support Centre for Agriculture (Pol. Krajowy Ośrodek Wsparcia Rolnictwa, KOWR) who participates in the consolidation process; 4) a representative of the starost in whose district the land to be consolidated is located; and 5) a representative of a chamber of agriculture relevant to the land to be consolidated. The procedure of land consolidation or exchange is closed by the starost who issues an administrative decision approving or disapproving the land consolidation or exchange project.

Land valuation is one of the most important components of the consolidation process. It determines the value of land owned by consolidation participants before the process is commenced and provides a basis for the separation of equivalent pieces of land. In practice, it is conducted to convince stakeholders that consolidation is beneficial for them and that they will all be treated equally.[12] In Europe, comparative, income, or cost methods are used depending on the type of valued property. For example, in France, Germany, the Netherlands, and Sweden, valuation of farmland relies on its natural productive capacity, while its location in relation to

[11] J. Dorémus, *Flurbereinigung in Frankreich*, "Schriftreiche des Bundesministers für Ernährung, Landwirtschaft und Forsten" 1992, no. 78, pp. 154–184; F.J. Meuser, *op. cit.*, pp. 92–102.

[12] A. Zieliński, *op. cit.*, p. 267.

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the farmstead or village centre is not always taken into account. Valuation may also be done by consolidation participants (boards, committees), agricultural experts, or surveyors. In countries where the cadastral values of plots have been defined, they can be also used.[13]

Polish land consolidation law has adopted a relative valuation rule (Article 11 (2) LCEA) which relies on prices that are binding when selling state-owned farmland and looks at the location of the plots involved in the whole consolidation area (e.g., convenience of access roads, location of economic centres), their agricultural suitability, and the function ascribed to that area by the local zoning plan. However, these rules are only followed in land valuation if land consolidation participants have not adopted any other valuation principles in their resolution. If they have, these other rules enjoy priority over the statutory rules unless, in their turn, the starost issues a decision saying that these rules may cause harm to the justified interest of one or more participants. The land valuation is carried out by a starost-appointed surveyor under the supervision of a starost-appointed committee which advises the surveyor. The valuation of the whole tract of land and particular plots is communicated to a meeting of consolidation stakeholders and made available for public inspection for a period of 7 days. The meeting offers an opportunity to raise objections against the valuation which are then examined by the committee that assists the land valuation surveyor. Objections may lead to the appointment of another body of stakeholders which presents their own opinion. Acceptance of the valuation is granted by consolidation participants in a separate resolution, in which each participant has one vote. If such a resolution is not adopted, the starost may approve the valuation by issuing an appealable decision.[14]

Land consolidation legislation in most European countries sticks to a principle whereby each consolidation participant has the right to receive an equivalent plot, especially in terms of type and size. Whenever this rule cannot be applied, any exceptions must be clearly defined and kept to a minimum. Polish land consolidation law follows the same rule. It allows deviation from full equivalency in situations where it is impossible for some reason. This applies, among other cases, to diminishing the land by the area required for broadly defined public purposes (Article 17 LCEA) which becomes a municipal property as soon as the consolidation project has been approved.[15]

In connection with the principle of land equivalence before and after consolidation, Polish land consolidation law says that the difference in their value must not exceed 3%. If technical reasons make it impossible to offer plots for the same estimated values, cash equivalents are paid to compensate for value differences

[13] F.J. Meuser, *op. cit.*, pp. 121–125; A. Vitikainen, *op. cit.*, pp. 34–35.
[14] A. Zieliński, *op. cit.*, pp. 267–268.
[15] *Ibidem*.

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above 3%. Similar regulations are in force in other European countries where the differences in land value may reach 5%, e.g. in Germany and Sweden, or even 15%, as in the Netherlands and Belgium.[16] According to Polish law, the difference between the area of a plot allocated to a land owner and the area of a plot subject to consolidation requires their acceptance, if it is higher than 20%, or 10% if the previously owned land was especially suitable for farming or if the local land use plan uses it for non-agricultural purposes. Any claims raised by a participant seeking compensation for such land value differences are processed in an administrative procedure.[17]

According to Article 27 (1) and (2) LCEA, the consolidation project may be approved if it was displayed for public inspection and the majority of stakeholders made no objections against it. The decision approving the land consolidation or exchange project is an ordinary administrative decision, although it has some specific features in its essence and consequences. Apart from the provisions set forth in Article 107 of the Administrative Procedure Code,[18] the decision approving a land compensation or exchange project should also define: 1) the area covered by land consolidation or exchange; 2) the dates and terms of plot acquisition after consolidation or exchange and the settlement methods mentioned in Article 2 (3), Article 8, Article 14 (1), and Article 23 (1) LCEA; 3) property boundaries in cases referred to in Article 27 (4) of the Land Surveying and Cartography Law.[19] A legally binding decision which approves a land consolidation project has civil and legal effects: it provides grounds for commencing executive actions, in particular, for granting possession of separated land plots to process participants (Articles 29 and 30 LCEA). It also has effects on ownership rights: a consolidation participant who acquires a plot of land must be recognized as its owner. A decision which approves a land consolidation or exchange project is also a title for disclosure of the new legal status in the land and mortgage register (Article 29 LCEA).

This paper seeks to demonstrate that the current rules of land valuation in the consolidation process in Poland do not actually lead to the implementation of the fundamental goal of consolidation, that is, providing better farming conditions by way of improved spatial structure of farmland. This is because the stakeholder meetings, which are supposed to have a decisive voice, are in fact underrepresented and, thus, play an insignificant role. To support this thesis, an analysis was conducted of the relevant documents, such as minutes of the meetings of land consolidation participants and resolutions on defining the land valuation rules, which were ob-

[16] F.J. Meuser, *op. cit.*, pp. 125–129.

[17] A. Zieliński, *op. cit.*, p. 268.

[18] Act of 14 June 1960 – Administrative Procedure Code (consolidated text, Journal of Laws 2021, item 735, as amended); Act of 21 January 2021 amending the Act – Administrative Procedure Code and some other acts (Journal of Laws 2021, item 187).

[19] Act of 17 May 1989 – Land Surveying and Cartography Law (consolidated text, Journal of Laws 2021, item 1990).

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tained from all starosts in whose area land consolidation projects were carried out in 2017–2020. Following this analysis, which is presented below, some legal amendments will be proposed to the land valuation regulations in the consolidation process which consist in transferring the decisive role in land valuation from public advisory bodies to qualified registered professionals.

The study was carried out using data relating to 11 voivodships (provinces), 33 counties, and 51 rural communes, involving 112 land consolidation objects (defined based on surveying sections or their parts). The selection of the consolidation objects was guided by information obtained from voivodship marshal's offices and county starosts for the counties, communes, and sections in which farmland was subject to consolidation in 2017–2020. The study used information provided by the starosts under freedom of information law, comprising minutes of the first and second stakeholder meetings held to define land valuation rules and adopt the required resolutions. The investigator had access to 102 minutes and 51 resolutions. The difference in the number of consolidation objects and the number of minutes and resolutions results from the fact that sometimes a single set of minutes was made for the first and second meetings, and a single resolution often referred to a group (between 2 and 11) of consolidation objects. The minutes offered information about the number of people present at the meeting and on the total number of consolidation stakeholders per consolidation object. The resolutions provided information about the adoption of land valuation rules, including the number of consolidation participants present at each meeting, the number of votes for and against the resolution, and abstentions. The analysis of the above-mentioned documents offered insights into the involvement of the consolidation stakeholders in the land valuation procedure and defined the consolidation methods actually used in those processes.

RESEARCH AND RESULTS

1. Participation of land consolidation stakeholders in adopting resolutions defining land valuation rules

In line with Articles 11 and 13 LCEA, land consolidation stakeholders adopt a resolution in which they define the rules of land valuation and accept the valuation result. This resolution is adopted at a meeting summoned by the starost and chaired by their representative. The resolution is adopted following a three-quarter majority in the presence of at least half of the stakeholders. If the resolution is not adopted at the first meeting, it is considered valid if the resolution is adopted by a three-quarter majority of stakeholders at the second meeting, even if less than half of stakeholders are present. The analysis of the minutes of consolidation stakeholder meetings shows that in all cases the resolution in question could not be adopted

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at the first meeting because of an insufficient number of voters present. This is why the investigators focused on 47 minutes of second meetings held to define the land valuation rules which provided data on the total number of consolidation stakeholders (this information was missing from 4 minutes).

The actual picture of the consolidation stakeholder meeting turnout is shown in Table 1 and Figure 1. Table 1 shows that the total number of consolidation participants was 23,524, among which 1,440 came to the second meeting, revealing an average turnout of 6.1%. Figure 1 shows that the majority of meetings were attended by under 10% of stakeholders (45 consolidation objects gathered 1–5% participants, and 41 objects attracted 6–10%). Beyond that, meetings on 7 objects attracted 11–15% of participants, 2 objects attracted 16–20%, and 7 objects attracted 21–39%.

Table 1. Number of people present at second meetings to approve land valuation rules

No.	Province	County	Commune	Number of objects	Total number of stakeholders	Number of persons at a meeting	Attendance in %
1	Silesia	Zawiercie	Włodowice	1	1,089	14	1
2	Silesia	Zawiercie	Łazy	1	1,060	23	2
3	Lesser Poland	Myślenice	Lubień	1	957	21	2
4	Lublin	Zamość	Skierbieszów	4	872	23	3
5	Lesser Poland	Miechów	Charsznica	1	326	10	3
6	Lesser Poland	Kraków	Jerzmanowice-Przeginia	1	882	28	3
7	Lublin	Hrubieszów	Uchanie	1	386	13	3
8	Silesia	Częstochowa	Mykanów	3	1,163	40	3
9	Podlasie	Hajnówka	Narewka	11	886	31	3
10	Lesser Poland	Kraków	Jerzmanowice-Przeginia	1	1,393	49	4
11	Mazovia	Sokołów	Sabnie	3	476	17	4
12	Lublin	Łęczna	Ludwin	5	1,049	43	4
13	Pomeranian	Gdańsk	Przywidz	1	194	8	4
14	Lublin	Parczew	Podedwórze	1	386	16	4
15	Podlasie	Siemiatycze	Perlejewo	6	354	15	4
16	Silesia	Zawiercie	Pilica	1	251	12	5
17	Silesia	Częstochowa	Kłomnice	3	922	47	5
18	Lubuskie	Zielona Góra	Bojadła	1	414	24	6
19	Lubuskie	Sulęcin	Krzeszyce	2	223	13	6
20	Lower Silesia	Świdnik	Jaworzyna Śląska	2	321	19	6
21	Świętokrzyskie	Jędrzejów	Imielno	1	349	22	6
22	Silesia	Częstochowa	Kruszyna	1	722	49	7
23	Lublin	Włodawa	Hańsk	2	351	24	7
24	Silesia	Częstochowa	Lelów	1	849	59	7
25	Lower Silesia	Złotorya	Złotoryja	2	298	21	7
26	Lower Silesia	Dzierżoniów	Dzierżoniów	2	765	54	7
27	Lesser Poland	Tarnów	Żabno	4	500	39	8
28	Lesser Poland	Miechów	Charsznica	1	247	20	8
29	Podlasie	Siemiatycze	Dziadkowice	7	837	71	8
30	Podlasie	Mońki	Trzcianne	1	278	24	9

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No.	Province	County	Commune	Number of objects	Total number of stakeholders	Number of persons at a meeting	Attendance in %
31	Świętokrzyskie	Jędrzejów	Słupia	1	373	33	9
32	Łódzkie	Pajęczno	Nowa Brzeźnica	1	672	61	9
33	Świętokrzyskie	Włoszczowa	Secemin	1	366	35	10
34	Lublin	Biała	Sosnówka	2	239	23	10
35	Podlasie	Siemiatycze	Perlejewo	5	353	34	10
36	Silesia	Zawiercie	Pilica	1	246	24	10
37	Lublin	Włodawa	Stary Brus	3	475	48	10
38	Podlasie	Siemiatycze	Siemiatycze	3	423	45	11
39	Lower Silesia	Polkowice	Chocianów	2	286	33	12
40	Świętokrzyskie	Jędrzejów	Imielno	1	181	21	12
41	Lesser Poland	Miechów	Charsznica	1	211	26	12
42	Pomeranian	Gdańsk	Pruszcz Gdański	1	121	19	16
43	Podlasie	Hajnówka	Narewka	1	161	29	18
44	Lower Silesia	Świdnik	Strzegom	3	363	75	21
45	Opole	Namysłów	Domaszowice	1	72	16	22
46	Pomeranian	Malbork	Stare Pole	1	51	18	35
47	Łódzkie	Wieluń	Wieluń	2	131	51	39
				102	23,524	1,440	6 (avg.)

Source: own elaboration.

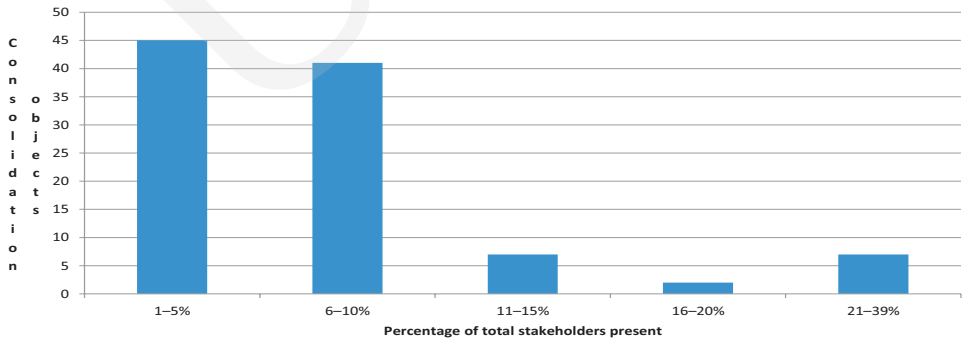


Figure 1. Number of people present at second meetings

Source: own elaboration.

The poor turnout at meetings of land consolidation stakeholders may have been caused by insufficient communication of the main aim of consolidation, set forth in Article 1 LCEA, i.e. the improvement of the spatial structure of farmland. According to this provision, participants in the consolidation process should be fully informed that farms with development potential may be enlarged at the cost of those lacking such potential, who will receive cash compensation equivalent to their diminished land area. This way of presenting the main purpose of consoli-

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dation would significantly strengthen the interest of land owners in the process of consolidation informed by land valuation. Currently, however, the main aims of land consolidation are communicated as: reduction of the number of plots; adjustment/improvement of their shapes; elimination of the inconvenient "chessboard" of fields; improvement of the distribution of fields within farms; ensuring each plot access to a public road; planning, mapping out and, further on, constructing a functional network of roads for agricultural transport; and defining the boundaries of plots allocated to public functions (technical and public infrastructure, regulation of habitat plot boundaries, modernisation of land and building records).[20] Consolidation stakeholders are, additionally, informed about post-replotting management which consists in carrying out works – defined in the decision on consolidation approval – that allow the participants to acquire the land separated for them in the consolidation process. These works include the construction or rearrangement of access roads to farmland, forests, and buildings belonging to individual stakeholders, adjustment or upgrading of existing drainage systems and other water management installations, liquidation of redundant hedges and roads, and recultivation works enabling the use of agricultural machinery (Article 1 (2) (9) LCEA).

2. Principles of land valuation in land consolidation

The analysis of the principles of land valuation, performed on 112 consolidation objects, has found that the following valuation methods were used:

- indicator method of comparative land valuation according to Lublin technology (17 objects),
- point-scoring method where the number of valuation points (valuation units) is allocated according to particular soil classes (41 objects),
- valuation method where each soil class is ascribed a number of unit values per hectare expressed in PLN (40 objects),
- point-scoring method where the number of points (valuation units) reflects the type of land and its current function (five objects),
- point-scoring method where the number of points (valuation units) is ascribed to a particular agricultural suitability zone (5 objects),
- valuation methods using a valuation rate defined in the Regulation of the Minister of Agriculture and Rural Development of 30 April 2012 on the detailed procedure of selling property from the Stock of Agricultural Property of the State Treasury and its components and the terms of reducing the selling price of property entered in the register of historical objects[21] (3 objects),

[20] A. Banasiak, K. Szymonik, *Projekt scalenia gruntów obiektu Zawada-Zberezka-Śliwaków, gmina Kłomnice, powiat częstochowski*, "Przegląd Geodezyjny" 2021, no. 2, pp. 14–15.

[21] Journal of Laws 2012, item 540.

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– valuation methods based on prices paid when selling state-owned farmland (Article 30 of the Act of 19 October 1991 on the management of the agricultural land of the State Treasury;[22] 1 object, following a decision made by the starost).

In what follows, I go through each method of land valuation and assess its characteristics, accuracy, and effectiveness with reference to standard market rates.

2.1. Indicator method of comparative land valuation according to Lublin technology

This method consists in defining the calculation factors expressed in points allocated to the particular soil class and the soil/farming suitability zone. The value of points was defined differently: PLN500 (2 objects), PLN400 (7 objects), PLN300 (4 objects), and PLN250 (4 objects). None of the minutes explains the basis of the adopted point value.

Table 2 shows calculations made for objects located in six rural communes defining the value of 1 ha of arable land class RIV-a and agricultural suitability zone K-4, alongside the market price of 1 ha.

Table 2. Comparison between the value of 1 ha of land according to the indicator method (Lublin technology) and the market price as quoted by Statistics Poland

No.	Province	County	Commune	Number of objects	Unit value (PLN)	Number of points	1 ha value (PLN)	1 ha Statistic Poland price (PLN)	%	Year
1	Lublin	Biała	Sosnówka	2	500	55	27,500	31,247	88	2017
2	Lublin	Hrubieszów	Uchanie	1	300	55	16,500	36,727	44	2020
3	Świętokrzyskie	Jędrzejów	Imielno	1	400	55	22,000	26,517	82	2019
4	Świętokrzyskie	Jędrzejów	Imielno	1	400	55	22,000	26,517	82	2019
5	Lublin	Łęczna	Ludwin	5	400	55	22,000	31,247	70	2017
6	Lublin	Lubartów	Ostrówek	3	300	55	16,500	30,211	55	2017
7	Lublin	Zamość	Skierbieszów	4	250	55	13,750	32,439	42	2018
				17					62.7 (avg.)	

Source: own elaboration.

As the resolutions require, Table 2 uses the allocation of 55 points to 1 ha of arable land class RIV-a in agricultural suitability zone K-4. Assuming the value of one point as it was defined in the resolutions determining the land valuation rules, the value of 1 ha was calculated and compared with the sale price of 1 ha of

[22] Consolidated text, Journal of Laws 2022, item 514, hereinafter: the Management of Agricultural Land Act.

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farmland paid in private land trading (quarterly data).[23] Comparing these values shows that they differ greatly – the indicator method gives values of 1 ha of land that are on average 37% lower than the market price for the same piece of land. This analysis of the value of 1 ha of land presented in Table 2 and calculated based on the adopted value of one point also discovered that this method of calculating value differs significantly from, with the average difference being 37%.

Therefore, we claim that the improvement of farmland structure by way of paying cash equivalents to land owners who would be required to have their land diminished after consolidation could not be achieved. This means that the main goal of land consolidation, i.e. improvement of the spatial structure of farms, cannot be achieved because of the glaring difference between the value of 1 ha of land calculated based on the adopted resolutions and the market price of the same hectare of land. This is especially true for 8 consolidation objects in the villages of Uchanie, Ostrówek, and Skierbieszów, where the value of 1 ha of land determined by comparative valuation was 53% lower than its market price.

2.2. Point-scoring method where the number of valuation points (valuation units) is allocated to a particular soil class

This method consists in defining the calculation coefficients expressed in points dictated by the soil class. The value of the points was determined in various ways for 27 objects. These amounts are given in Table 3 lines 1–17.

Lines 1–13 in Table 3 show the calculations made for 20 objects located in 13 villages reflecting the values of 1 ha of arable land class RIV-a and the market price of 1 ha of land. Line 14 shows the calculations made for two objects in the village of Chocianów reflecting the value of 1 ha of arable land class RV and the market price of 1 ha. This principle followed from the resolution which adopted the value of 1 ha of land predominating in the consolidation of class RV. Line 15 shows the calculations made for two objects in the village of Jaworzyna Śląska reflecting the value of 1 ha of arable land class RIII-b and the market price of 1 ha. This principle followed from the resolution. None of the respective minutes explained the basis of the adopted point value.

Table 3 lines 16–17 show the calculations made for three objects in the communes of Nowa Brzeźnica and Wieluń reflecting the value of 1 ha of arable land class RIV-a and the market price of 1 ha. The resolution assumed the value of one point as the equivalent of 10 quintals of rye at a price quoted in the announcement

[23] Główny Urząd Statystyczny, Bank Danych Lokalnych, https://bdl.stat.gov.pl/BDL/dane/podgrup/tablica (access: 15.4.2023).

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Table 3. Comparison between the value of 1 ha of land defined by the point-scoring method where the number of points is allocated to a particular soil class and the market price as quoted by Statistics Poland

No.	Province	County	Commune	Number of objects	Unit value (PLN)	Number of points		1 ha value (PLN)	1 ha Statistics Poland price (PLN)	%	Year
1	Silesia	Częstochowa	Kłomnice	3	400	55		22,000	36,410	60	2018
2	Silesia	Częstochowa	Mykanów	3	300	55		16,500	40,420	41	2019
3	Silesia	Częstochowa	Kruszyna	1	400	53		21,200	43,522	49	2020
4	Silesia	Częstochowa	Lelów	1	400	55		22,000	43,522	51	2020
5	Lower Silesia	Jawor	Mściwojów	3	450	90		40,500	36,229	111	2019
6	Świętokrzyskie	Włoszczowa	Secemin	1	200	53		10,600	28,160	38	2019
7	Silesia	Zawiercie	Pilica	1	500	48		24,000	43,522	55	2020
8	Silesia	Zawiercie	Włodowice	1	500	53		26,500	38,924	68	2020
9	Silesia	Zawiercie	Pilica	1	500	48		24,000	43,522	55	2020
10	Silesia	Zawiercie	Łazy	1	500	53		26,500	34,370	77	2018
11	Lesser Poland	Miechów	Charsznica	1	380	85		32,300	28,934	111	2017
12	Lublin	Włodawa	Hańsk	2	566	45		25,470	31,331	81	2017
13	Lublin	Parczew	Podedwórze	1	580	50		29,000	34,297	85	2020
14	Lower Silesia	Polkowice	Chocianów	2	301	60		18,060	31,926	57	2020
15	Lower Silesia	Świdnik	Jaworzyna Śląska	2	410	100		41,000	36,229	113	2019
16	Łódzkie	Pajęczno	Nowa Brzeźnica	1	585	55		32,175	45,763	70	2020
17	Łódzkie	Wieluń	Wieluń	2	524	55		28,820	38,018	66	2017
18	Lower Silesia	Złotoryja	Złotoryja	2	A	90	value agreed between stakeholders				2017
19	Lower Silesia	Dzierżoniów	Dzierżoniów	2	B	90	value agreed between stakeholders				2017
20	Lower Silesia	Świdnik	Strzegom	3	C	85	value agreed between stakeholders				2018
21	Lower Silesia	Jawor	Mściwojów	3	D	90	value agreed between stakeholders				2018
22	Małopolskie	Tarnów	Żabno	4	E	70	value determined by appraiser				2018
				41						55 (avg.)	

Source: own elaboration.

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of the President of Statistics Poland.[24] In connection with the above, the value of 1 ha was PLN32,175 (PLN585 x 55 pts) for 1 object in Nowa Brzeźnica commune and PLN28,820 (PLN524 x 55pts) for 2 objects in Wieluń commune.

As above, the value of one point as defined in the resolutions was compared with the sale price of 1 ha of farmland in private land trading (quarterly data).[25] The comparison of the value of 1 ha of land expressed in PLN as calculated by the comparative valuation (Table 3 lines 1–17) shows that these values were significantly lower than the market price of 1 ha of arable land for 17 objects (45% lower on average), and were close to the market price for 10 objects.

We can, therefore, assume that improvements of spatial structure through consolidation could not be achieved for 17 objects. Hence, the main goal of land consolidation cannot be reached because of the glaring difference between the value of 1 ha of land defined according to the resolutions and the market price of the same hectare. Improvement of the land structure through consolidation was possible and acceptable to process participants only on 10 objects because the value of 1 ha of land established in the resolutions corresponded with the market price of the same hectare of land.

The method of establishing the value of one valuation point on 10 objects located in the communes of Złotoryja, Dzierżoniów, Strzegom, and Mściwojów, which are presented in Table 3 lines 18–21, deserves extra discussion. The resolutions defining the land valuation rules on those objects describe the following: Whenever an equivalent plot is separated in order to enlarge the area of a farm at the expense of another consolidation participant, the value of the cash equivalent granted for the land and its components will be defined between the interested parties on the basis of their joint statement.

Since the documents do not carry information on how these parties came to the adopted point values, they were marked in Table 3 with letters A, B, C, D, E. We can presume that the lack of the parties' joint statements concerning the point value was caused by the fact that the consolidation process failed to produce any improvement in the structure of the farmland involved.

Special rules for defining the value of points were also adopted for 4 objects located in the commune of Żabno (Table 3 line 22). The resolution defining the land valuation rules on these objects describes the following: The PLN value of one valuation point will be determined by an asset valuer whenever cash equivalents

[24] Główny Urząd Statystyczny, Komunikat w sprawie średniej ceny skupu żyta za okres 11 kwartałów będącej podstawą do ustalenia podatku rolnego na rok podatkowy 2020, https://stat.gov.pl/sygnalne/komunikaty-i-obwieszczenia/lista-komunikatow-i-obwieszczen/komunikat-w-sprawie-sredniej-ceny-skupu-zyta-za-okres-11-kwartalow-bedacej-podstawa-do-ustalenia-podatku-rolnego-na-rok-podatkowy-2020,270,6.html (access: 15.4.2023).

[25] Główny Urząd Statystyczny, Bank Danych Lokalnych, *op. cit*.

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are required before the decision is issued and based on the value of 1 ha of land representing the soil class which predominates in the area under consolidation.

We can presume that the lack of a valuer's appraisal report in the set of documents was caused by the fact that the consolidation process failed to produce any improvement in the farmland structure.

The rules determining valuation points discussed in Table 3 lines 18–22 offer, to some extent, some possibility to improve the structure of farmland because they actually invite the use of market prices in land trading.

2.3. Land valuation method where each soil class is ascribed unit values per hectare

This method consists in determining the value of 1 ha of land for each soil class found on the object under consolidation. None of the minutes of meetings held to define rules of land valuation explains the basis on which the value of 1 ha was adopted. Table 4 reveals the results of analysis covering a total of 40 objects.

Table 4. Comparison between the value of 1 ha of land defined by the land valuation method where each soil class is allocated unit values per hectare and the market price of the same land according to Statistics Poland

No.	Province	County	Commune	Number of objects	1 ha value (PLN)	1 ha Statistics Poland price (PLN)	%	Year
1	Mazovia	Sokołów	Sabnie	3	40,000	40,731	98	2018
2	Podlasie	Hajnówka	Narewka	11	26,400	52,899	50	2019
3	Podlasie	Hajnówka	Narewka	1	25,500	40,473	63	2017
4	Podlasie	Mońki	Trzcianne	1	21,500	40,935	53	2017
5	Podlasie	Siemiatycze	Perlejewo	5	33,000	45,742	72	2018
6	Podlasie	Siemiatycze	Perlejewo	6	33,000	45,742	72	2018
7	Podlasie	Siemiatycze	Dziadkowice	7	31,000	52,935	59	2019
8	Podlasie	Siemiatycze	Siemiatycze	3	26,000	52,899	49	2019
9	Lubuskie	Sulęcin	Krzeszyce	2	30,000	29,925	100	2016
10	Lubuskie	Zielona Góra	Bojadła	1	30,000	32,688	92	2019
				40			65 (avg.)	

Source: own elaboration.

The calculations given in Table 4 use the value of 1 ha of arable land class RIV-a and the market price of 1 ha quoted by Statistics Poland.[26]

A comparison of the value of 1 ha of land calculated by the comparative valuation shows that these values were markedly lower than the market price of 1 ha of arable land on 37 objects (41% lower on average) and were close to the market

[26] *Ibidem*.

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price of 1 ha of arable land on 3 objects (they usually represented 98% of the market price).

As with the previous land valuation methods, we can, therefore, assume that land consolidation could not be achieved on 37 objects, once again due to the discrepancy between the outcome of the land valuation method employed and market prices.

2.4. Point-scoring method where the number of points (valuation units) is related to the type of land and its current function

This method consists in determining the value of land on a point-scoring scale related to so-called land valuation units. The land value was determined on the basis of (a) the plot's function described in the local land use plan (MPZP) and (b) soil class according to the plot's actual use, productivity, and crops determined by way of current local inspection.

However, none of the minutes of meetings on defining the rules of land valuation includes any explanation of how the value of 1 ha was established. The calculations presented in Table 5 refer to the value of 1 ha of arable land class RIV-a and the market price of 1 ha quoted by Statistics Poland.[27]

Table 5. Comparison between the value of 1 ha of land defined by the point-scoring method where the number of points is related to the type of land and its function and the market price of that land according to Statistics Poland

No.	Province	County	Commune	Number of objects	Unit value (PLN)	Number of points	1 ha value (PLN)	1 ha Statistics Poland price (PLN)	%	Year
1	Lesser Poland	Miechów	Charsznica	1	200	80	16,000	33,602	48	2020
2	Lesser Poland	Miechów	Charsznica	1	200	90	18,000	33,500	54	2020
3	Opole	Nysa	Korfantów	1	350	90	31,500	44,110	71	2019
4	Lesser Poland	Kraków	Jerzmanowice--Przeginia	1	45	90	4,050	33,602	12	2020
5	Lesser Poland	Kraków	Jerzmanowice--Przeginia	1	45	90	4,050	33,602	12	2020
				5					39 (avg.)	

Source: own elaboration.

Table 5 shows that for 5 objects the values were markedly lower than the market price (61% lower on average). We can conclude again that land consolidation on these objects could not be achieved and spatial structure of farmland was not improved.

[27] *Ibidem*.

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2.5. Land valuation method using the valuation rate

This method consists in determining the value of land by the valuation rate given in the Regulation of the Minister of Agriculture and Rural Development of 30 April 2012 on the detailed procedure of selling property from the Stock of Agricultural Property of the State Treasury and its components and the terms of reducing the selling price of property entered in the register of historical objects. This method was employed on 3 objects located at the communes of Stare Pole, Przywidz, and Pruszcz Gdański.

Resolutions where this method was used include statements that the method cannot be applied to land intended for increasing consolidated farms and on State Treasury-owned land managed by the National Support Centre for Agriculture. Referring to these plots, the resolutions point to the need of having their values defined as required by Article 30 (1) of the Management of Agricultural Land Act, i.e. to be valued by property appraisers. Texts of the adopted resolutions make it clear that in the case of potential improvement of the farmland structure, the value of the plots involved should be determined in a valuer's appraisal report.

2.6. Land valuation method based on state-owned agricultural property sale prices

This method was employed on one object in the community of Słupia Jędrzejowska on the grounds of the starost's decision, because participants in the consolidation process did not define the rules of land valuation and did not adopt any resolution. When state-owned agricultural land is on sale, the transaction is conducted according to rules described in Article 30 of the Management of Agricultural Land Act. These rules require the price of state-owned agricultural land to be set at a level no lower than the value of that property determined with methods prescribed by the law on property management, that is, by qualified appraisers. The starost's decision says that in the case of a potential improvement to the farmland structure, the value of the land and its components should be determined based on valuer's appraisal reports made by those experts.

DISCUSSION AND CONCLUSIONS

As has been stated above, the main goal of land consolidation is to improve the spatial structure of farms. Implementation of this goal requires that farmers, who may be old and who may lack successors altogether or successors who want to continue with farming activities, to be interested in giving up part of their land to the benefit of some other land consolidation stakeholders. This would be possible only if these farmers get cash compensation equal to the market value of the land they have to give up.

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1. Achievement of the main goal of land compensation *de lege lata*

This study has shown that the above-mentioned main goal of land compensation is seldom achieved in practice. The paper presents the analysis of minutes of compensation stakeholder meetings and their resolutions on defining the land valuation rules for 112 valuation objects where compensation was offered in 2017–2020. It has been found that on 22 objects (20% of the total) the adopted land valuation rules ensured that the value of 1 ha of farmland in the compensation area was set at a level corresponding with the market price. Therefore, the main goal of land consolidation was achievable on those objects. However, for 80% of the objects under study, the adopted land valuation rules were responsible for setting the value of 1 ha of land in the compensation area at a level significantly lower (average 46%) than the market price. Reaching the main goal of land compensation, i.e. improving the structure of farms by enlarging their arable area, was impossible with these objects because none of the stakeholders would ever give up part of their property for a price which is way lower than the market value. Therefore, the only compensation-related improvements possible on these objects included the rational distribution of plots and adjustment of property boundaries to drainage systems, roads, and landscape features. Carrying out post-compensation procedures was also of importance here.

2. Legal solutions de *lege ferenda*

The analysis suggests that legal solutions are required to guarantee improvement of the spatial structure of farmland through land consolidation. The proposed amendment should be made in the text of Article 11 (1) and (2) LCEA which currently reads: 1. The consolidation stakeholders adopt a resolution in which they define the land valuation rules. However, if the Starost by his decision finds that such a valuation would run counter to a justified interest of any of the stakeholders, the letter of section 2 will apply. 2. Whenever the consolidation stakeholders do not define the land valuation rules, the valuation will be done based on the prices paid when selling the state-owned agricultural land while taking into consideration the location of the plots within the compensation area, their agricultural suitability, and function performed according to the local land use plan.

The amendments *de lege ferenda* are proposed in two variants.

Variant I. Article 11 (1) LCEA should be rephrased as follows: 1. Land valuation is conducted according to rules set forth in Article 30 (1) of the Act on the management of agricultural land of the State Treasury, i.e. the land valuation should be conducted by property appraisers using valuation methods described in the Property Management Act.

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Section 2 should be removed altogether. The text of sections 3 and 4 should remain unchanged because the value of tree stands, trees, and bushes, as well as other landscape components is determined by the property appraiser according to principles set forth in property management law.

The above-proposed amendments will unify land valuation rules for the purpose of land consolidation because, as this study has demonstrated, they are strongly diversified at present. The above analysis of the minutes of consolidation stakeholder meetings and their resolutions defining the land valuation rules shows that there are at least six different land valuation methods which, under the current law, depend on the decision of a surveyor who develops the consolidation project and on the willingness of the stakeholders. This study's findings suggest that low turnout at the stakeholder meetings (average 6.1%) means that the expression of their position on the valuation methods is negligible.

Amendments to this law will certainly bring homogeneity into the principles of land consolidation, specifically with regards to land valuation, and it will also free the valuation method from its dependence on the particular type of land ownership title (currently, privately owned land is valued differently to state-owned land).

Variant II. It should be proposed on the basis of the analysis of the current solutions applied in land valuation of the consolidation objects under study. For 7 objects, the adopted rule said that whenever a plot was separated as equivalent for the diminishing of one farm to the benefit of another, the PLN value of one point would be determined by an appraiser. On 10 other objects, however, the adopted rule was that whenever a plot was separated, the cash equivalent of that stretch of land and its components will be defined by the stakeholders who will vote for a joint statement on the subject. In variant II, guided by the above solutions, I propose to introduce more homogeneity to the law by modifying Article 11 LCEA. Article 11 (1) to (4) remain unchanged, but the following new paragraph is added as section 5: Whenever a plot of land is separated as an equivalent for increasing one farm at the expense of another land consolidation participant, the PLN value of one valuation point will be determined by a property appraiser based on the value of one hectare of land representing the soil class predominating in the consolidation area. The amount of cash compensation calculated on the basis of the value established by the appraiser needs the acceptance of the stakeholders involved.

These amendments do not change the fact that the selection of a comparative land valuation method is still part of the competence of a surveyor who develops the compensation project with the assistance of the stakeholders. However, the amended regulations would require the surveyor to identify a group of stakeholders interested in getting a cash equivalent for the plots of land they are ready to give up. This is because their acceptance of the appraiser-proposed land value would be of key importance in this valuation method. The cash equivalent calculated based on the value determined by the appraiser should win the acceptance of all the interested parties.

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We can presume that full information conveyed to the consolidation stakeholders clearly stating the main goal of the procedure (i.e., improving the spatial structure of their farmland) and explaining the land valuation rules as stated in one of the proposed amendments, will increase their interest in the process. My research has demonstrated that the average number of people interested in the consolidation process, i.e. the number of people present at the stakeholder meetings, was 6.1%, as discussed in section 3.1.

The above statements substantiate my thesis concerning the methods used in land valuation performed in connection with the process of land consolidation.

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ABSTRAKT

Prawidłowa struktura przestrzenna gospodarstw rolnych jest jednym z podstawowych warunków efektywności produkcyjnej rolnictwa i umożliwia stosowanie zaawansowanych technologii rolniczych. W Polsce scalanie gruntów reguluje ustawa o scalaniu i wymianie gruntów z 1982 r., która ma na celu poprawę struktury przestrzennej gruntów rolnych. Wycena gruntów stanowi tu kluczowy element, ponieważ określa rekompensatę oferowaną zainteresowanym stronom, których grunty zostaną zmniejszone w wyniku konsolidacji gruntów. Jednak w Polsce stosuje się różne metody wyceny gruntów. W artykule zbadano istotne dokumenty uzyskane od wszystkich starostw powiatowych uczestniczących w konsolidacjach w latach 2017–2020, takie jak protokoły posiedzeń uczestników scalania gruntów oraz ich uchwały w sprawie przyjęcia zasad wyceny gruntów. Z analizy wynika, że dotychczasowe metody wyceny gruntów w procesie konsolidacji nie zapewniają osiągnięcia głównego celu scalania gruntów, jakim jest zapewnienie lepszych warunków do uprawy roli poprzez poprawę struktury przestrzennej użytków rolnych. Dzieje się tak przede wszystkim dlatego, że stosowane metody wyceny gruntów wyceniają grunty poniżej bieżących cen rynkowych. Na podstawie tego ustalenia zaproponowano zmiany prawne dotyczące wyceny gruntów, które są bardziej dostosowane do potrzeb procesu scalania gruntów. Do pożądanych modyfikacji należy m.in. odrzucenie decydującej roli organów publicznych na rzecz profesjonalnych wycen dokonywanych przez zarejestrowanych rzeczoznawców majątkowych. W tym zakresie proponuje się dwa warianty nowelizacji art. 11 ustawy o konsolidacji i wymianie gruntów.

Słowa kluczowe: scalanie gruntów; szacowanie gruntów; struktura obszarowa; ustawa o scalaniu i wymianie gruntów