

Rail Baltica in Estonia, a Challenging Land Acquisition Project

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Key words: land acquisition for large infrastructure, willingness for land consolidation, expropriation, legislation on land acquisition for public needs, voluntary versus mandatory.

SUMMARY

By 2008 it was decided to build the Rail Baltica, a high-speed railway for passengers and freight transport between Warsaw (Poland) and Tallinn (Estonia). The total length of the railway is 870 km. For the Baltic States this project is very challenging. There was less experience with such a large land acquisition project. The experiences with land consolidation in these countries was different. Lithuania had more experiences in projects on voluntary base and in Estonia this instrument was used more than 20 years ago. In 2017 the Government of Estonia decided to make a new Act on Acquisition of Immovables in Public Interest (in power in 2018). During the preparation of the railway trace 43 meetings with 343 landowners of the 422 parcels were held to investigate their wishes. During the negotiations 111 offers (71% of the landowners) has agreed to have compensation in money (with a motivation fee), 24% of the landowners has agreed to have the compensation in land (without a motivation fee) and 5% of the landowners have not yet agreed with the offer. In Latvia and Lithuania it was decided to expropriate land which is needed for the railway trace. In the Netherlands the high-speed railway between Amsterdam and the border with Belgium was partly realized on a voluntary way of re-allotment plans or in a land consolidation project in execution (Hoekse Waard Oost). Research from universities in Lithuania learned so far that there will be long-term benefits for the State's economy but the project will also affect rational land use. The railway will have a direct and indirect impact on the fragmentation of the land parcels.

Estonian:

2008. aastal otsustas Euroopa Komisjon Rail Baltic raudtee rahastamise. Balti riikide jaoks on tegu väljakutsuva projektiga, kuna tegu on valdavalt uude trassikoridori rajatava raudteega ning maade omandamine tuleb viia läbi suuremas mahus kui kunagi varem. Uue taristu rajamisega tekib olemasolevate kinnisasjade killustatus, seega on ühe meetmena olukorra leevendamiseks pakutud maakorraldust piiride muutmise ja ümberkruntimise näol. Maakorralduse ja ümberkruntimise kogemused on Balti riikides olnud erinevad. 2018. aastal kehtestati Eestis kinnisasja avalikes huvides omandamise seadus. Paralleelselt hakati raudtee eelprojekti ja maade omandamise võimaluste tutvustamiseks korraldama kohtumisi maaomanikega. Toimus 43 kohtumist, kus osales 343 maaomanikku, kelle omandisse kuulub 422 raudtee eelprojektiga kattuvat kinnisasja. Eestis on tehtud pakkumus 111 kinnisasja omanikule, kellest 71% on nõustunud rahalise pakkumusega (koos motivatsioonitasuga), 24% on võtnud kompensatsiooni maana (ilma motivatsioonitasuta) ja 5% maaomanikega on läbirääkimised veel pooleli. Lätis ja Leedus viiakse maade omandamine läbi sundvõõrandamise otsuse alusel. Hollandis on

kiirraudtee ehitamiseks maad omandatud nii maaomanike nõusolekul kui ka riigi otsuse alusel ümberkruntimisega. Raudteel on kinnisasjadele otsene ja kaudne mõju.

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1. INTRODUCTION

By 2008 it was decided that the European Commission will support the project of Rail Baltica. Rail Baltica will be an electric high speed railway from Warsaw to Tallinn, motivated by a desire to reduce carbon emissions. Also to change the Russian gauge tracks to European gauge tracks. The countries Poland, Lithuania, Latvia and Estonia has to cooperate to realize this infrastructure. The new railway is important to connect with the European infrastructure via Berlin to Amsterdam and Rotterdam.



The acquisition of required land for the railway is a challenging project. The total length of the railway is 870 kilometers.

	Length (km)	Number of parcels
Estonia	213	650
Latvia	265	1591
Lithuania	392	1300

The Rail Baltica should be used for the transport of passengers and for freight transport. The maximum speed for the passenger train will be 249 km/h and for the freight line 120 km/h. There was less experience with projects with such a large land-acquisition targets.

The only experience in Estonia was acquiring land for:

- road construction (94% of all land transactions);
- building of state border. The government decided to demarcate the Estonian-Russian border by the 100th anniversary of the Republic of Estonia;
- creation of military training areas;
- acquisition of land in nature protection areas with strict restrictions on land use

1.1 Restitution of land

Morten Hartvigsen (2015) described the situation in the Baltic States “ After the independence in 1991 from the Soviet Union the three Baltic States started with the land reform. In fact from 1989 individual household farms were allowed to increase from 0,5 ha to 2,0 ha. In Estonia even larger households were possible. During the Soviet time all agricultural land was owned by the State and the land in use by large collective state farms. The reform of the land was to bring it back in de hands of former owners from before WWII and to consolidate the family farms.

In Latvia, landownership rights were restituted on the basis of the ownership situation as it was on 21 July 1940. Cadastral maps and the Land Book records from the period of 1924-1940 were used as the basis for restitution. Latvia restituted land exclusively to native Latvians.

In Estonia, the Estonian Land Board, together with local government, was responsible for the land reform process. At the end of 2008, almost 90 percent of the land eligible for restitution and privatization had been registered in the Cadaster. In Estonia, the objective of land reform was broader than in the two other Baltic countries. Restitution to former owners was one objective, but so too was the privatization through sale of state land, as well as the transfer of state land into the ownership of local government, and the determination of the land to be retained in State ownership. These different objectives of land reform were all part of the same process. As a result, the land reform process was probably more complicated in Estonia than in the other two countries. Many parcels were claimed by more than one owner.

Today, farm structures in the Baltic countries are dominated by a mix of large corporate farms and medium-large sized family farms. Household plots are often used for subsistence farming. Land fragmentation, to a moderate degree, has emerged as a side effect of land reform.”

1.2 Experiences with land consolidation in Lithuania, Latvia and Estonia

1.2.1. Lithuania:

After the reform period on voluntary basis several land consolidation projects has been worked out. In 2008 the Lithuanian National Land Consolidation Strategy was approved.

The overall objective of the strategy is:

- To create the assumptions and foresee the measures for successful land consolidation so as to ensure the rational use of land in rural residential areas and allow complex solving of the needs of the state, public and individuals.

Specific objectives:

- To ensure the relation of land consolidation with the rural and regional development;
- To create conditions for optimization of the land consolidation process.

1.2.2. Latvia:

The first attempts of Land Consolidation in Latvia in 1998-1999 was the LC pilot project in Gārsene, Jēkabpils district – the general aim was to improve the structure of households. In 2000-2002, a land exchange project was in Gauja National Park – the general aim was to exchange land of private owners which was situated in the core protected areas with the state land which was situated outside this area 2015-2016: a pilot project in Zemgale (region in South Latvia) was developed, but this was not realized due to a lack of State budget funding.

1.2.3. Estonia:

Estonia had experience with land consolidation between 1926 and 1940. A Land Consolidation Law was adopted in 1926 and revised in 1937. In total, around 24 000 farms involving 475 000 ha were consolidated before the Second World War.

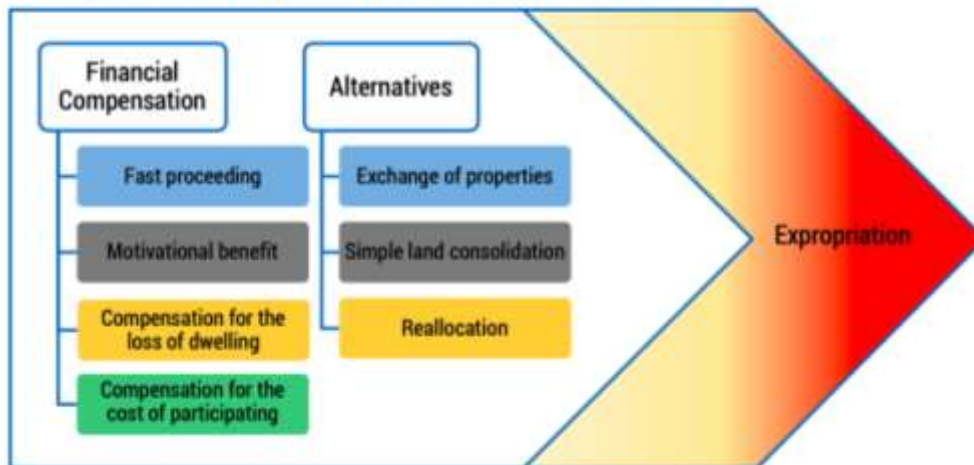
Land consolidation in Estonia was introduced through the adoption of the Land Consolidation Act in January 1995. The law passed the Parliament without any previous pilot projects or other field experiences. The law was inspired by the legal framework from 1926 and the Land consolidation in the field was re-introduced in Estonia through the technical assistance project “Integrated drainage and land development pilot in Estonia”. The project was implemented during 1998-2001 by experts from the Netherlands, together with the Estonian Ministry of Agriculture. The project was funded partly by the World Bank and partly by Dutch development funds. The project approach was fully integrated and mandatory, based on the Dutch land consolidation model and aimed at the same time to address agricultural structures and improve water management, rural roads and nature protection. The re-allotment procedure of the Land Readjustment Act was followed in four land consolidation pilot areas. Two of the pilots were fully implemented while the other two, which started in the middle of the project, were only partly completed. The concept of land consolidation in combination with drainage improvement was tested and the experience was positive.

1.3. Act on Acquisition of Immovables in Public Interest Estonia

With the experiences in earlier times in Estonia the Law on Expropriation and the Law on Land consolidation was judged as inappropriate for the acquisition for Rail Baltica. The government decided in 2017 to make a new Act on Acquisition of Immovables in Public Interest (2018) with different options for land acquisition:

- acquisition of the immovable;
- acquisition of the immovable by way of expedited procedure;
- exchange of the immovable; or
- land consolidation.

Compensation possibilities and alternatives



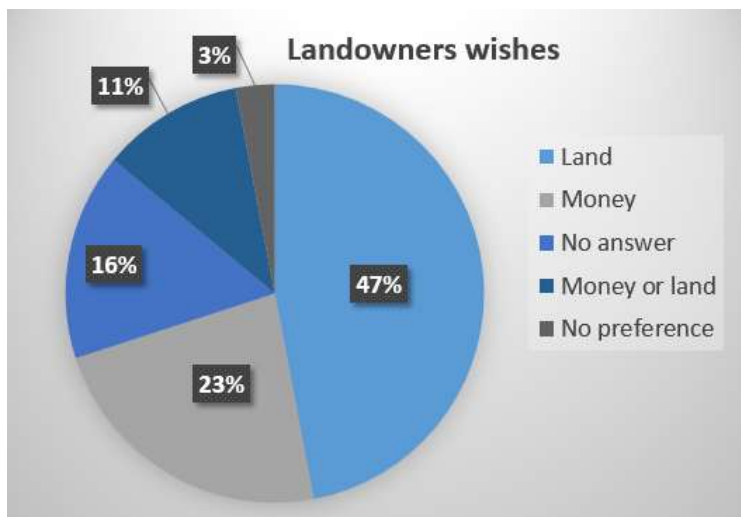
1.4. Which steps are taken during the preparation of the railway trace.

The planning phase of the route of the Rail Baltica ended in Estonia in February 2018. Acquisition of Immovables in Public Interest Act with other changes of the legislation came into force on the 1st of July 2018. So far the Estonian Land Board has arranged 43 meetings with 343 landowners of the 422 parcels.

The first contact with the landowners takes place when the landowner receives an invitation from the Land Board for the first meeting. Within the invitation the landowner also finds the preliminary project of Rail Baltica about their property. At these meetings the Land Board explains the possibilities for compensating their losses of the property and landowners have the possibility to explain their wishes about the compensations of their losses of the land for the first time.

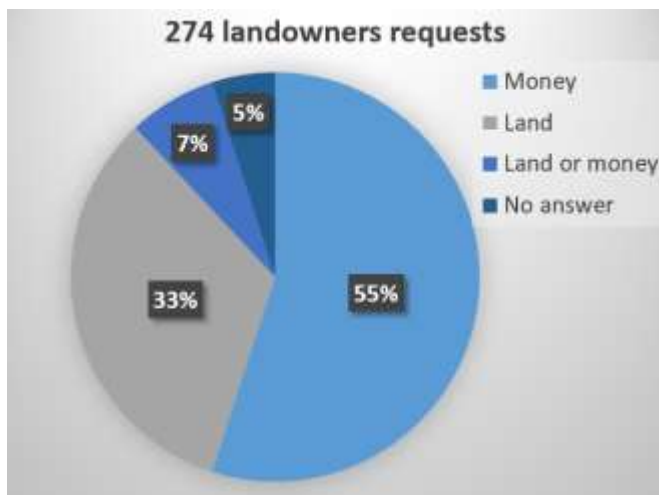
So the Land Board has as individual contact with the landowner as possible and maps their interests with colored markers as which part of the land they are ready to give up on, which part of the parcel should remain the landowners property and is there any part of the land they are ready to receive. The discussion with one owner usually lasts approximately 30 to 45 minutes.

After the first round of the meetings statistics about compensations was: about 47% of the landowners wanted to compensate their loss with land, about 23% of the landowners preferred compensation in money, about 11% could not decide before actual offer if they prefer money or land, about 3% preferred either money or land and about 16% did not have an answer.



1.5. Process of acquiring the land

The Estonian Land Board started acquiring the land by making the first offers in September 2018. The offers are made based on the requests of the landowners which were mapped in the meetings. By March 2021, the first 274 of private landowners have received the offers. Requests of the 274 landowners were as follows: 55% of 274 landowners preferred to have compensation in money, 33% preferred land, 7% either land or money and 5% of the first 274 landowners did not have an opinion how the government should compensate their loss of land.



If it has been possible and there has been suitable land available, the Estonian Land Board has always considered the requests of the landowners. But compensations with land is not often the best option for the landowners when a small parcel is needed for the railway. Based on the landowners wishes and possibilities from the government the first 274 offers were made as follows: for 70% of the landowners the offer was made in money, for 27% of the landowners the offer was made in money or in land (the offer consisted of both options) and for 3% of the first 274 landowners the offer was made in land. The landowners who received offer in land

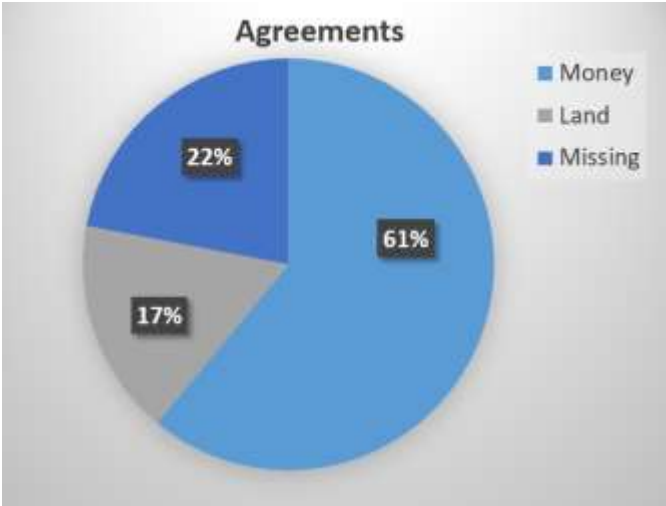
were involved in reallocation, which is the first reallocation project in Estonia caused by the large scale infrastructure project.



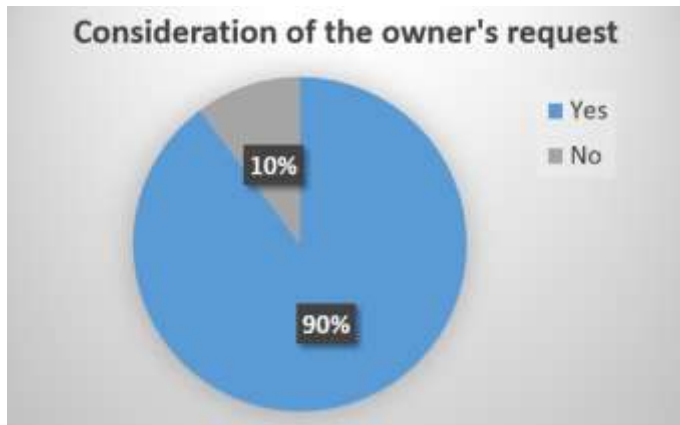
By March 2021, the first 215 landowners, who received the offers done by the Estonian Land Board, have given their agreement. Extra 19 parcels of governmental land has been formed for the railway.

1.6. Outcome of the first 274 offers

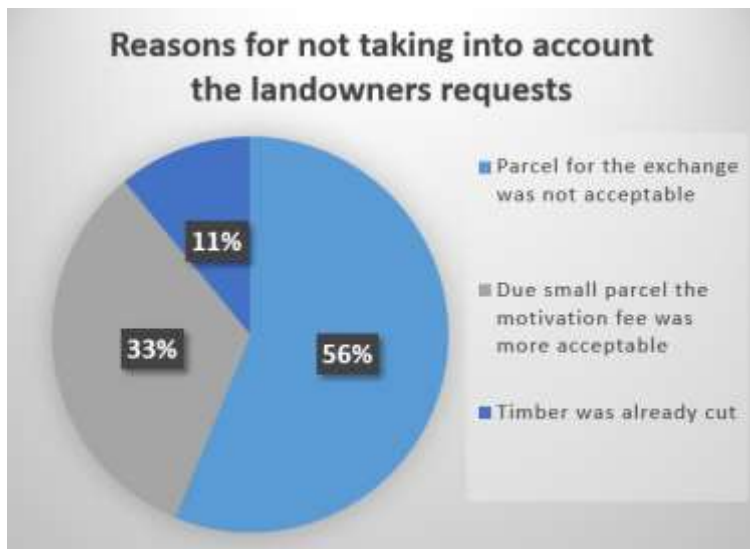
By March 2021 the outcomes of the first 274 offers are as follows: 61% of the landowners has agreed to have the compensation in money (with motivation fee), 17% of the landowners has agreed to have the compensation in land (without motivation fee) and 22% of the landowners have not yet agreed with the offer.



Analyzing the outcome of the negotiations of the first 274 offers the Estonian Land Board had an opportunity to consider the landowner`s requests in 90% of the offers made.



The main reason 10% of the cases, there was not an opportunity to consider the landowners requests were as follows: 56% of the cases the land, which the Estonian Land Board offered for the exchange for the parcel to be acquired was not acceptable for the landowner. There were also cases where the landowner requested land for the exchange but the request did not meet the criteria for exchange set out in the Act on Acquisition of Immovables in Public Interest. 33% of the cases the parcel to be acquired was so small that the motivation fee was more profitable for the landowner and 11% of the cases the timber of the parcel(Forest land) was already cut, so the exchange of immovable or land consolidation was not an option for the Land Board.

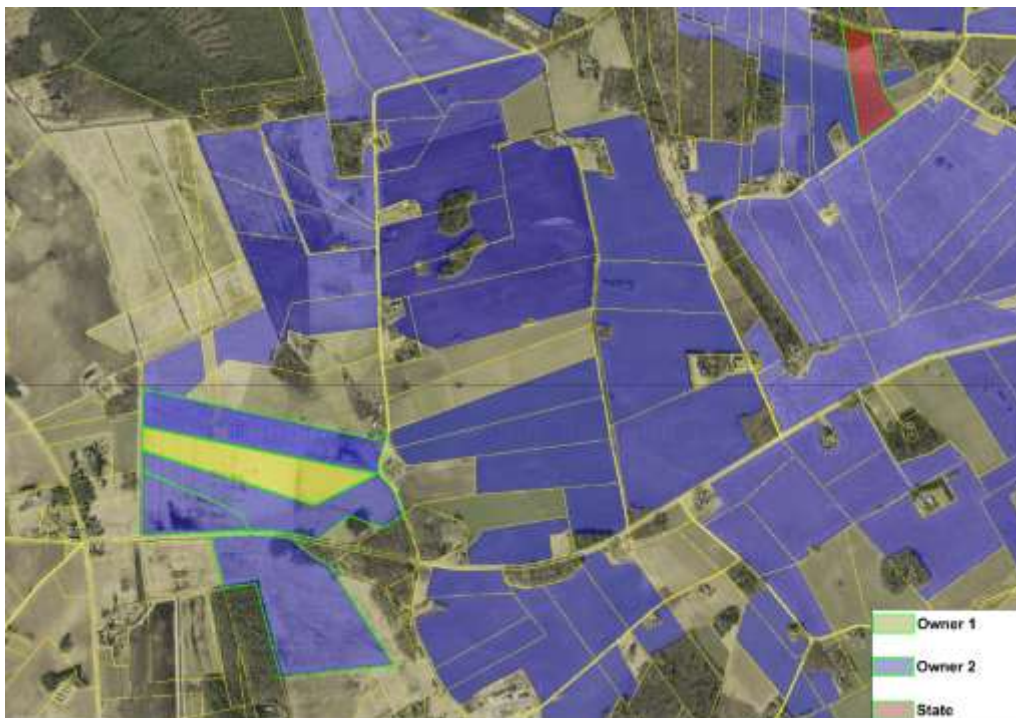


The Estonian Land Board wishes to end the acquiring of the land by the end of 2023, but still the size of the parcels is specified during the design process. The process of acquiring will continue until the design of the railway is completed.

1.7. First reallocation project

Reallocation in Estonia is only voluntary and it is regulated by the Land Consolidation Act.

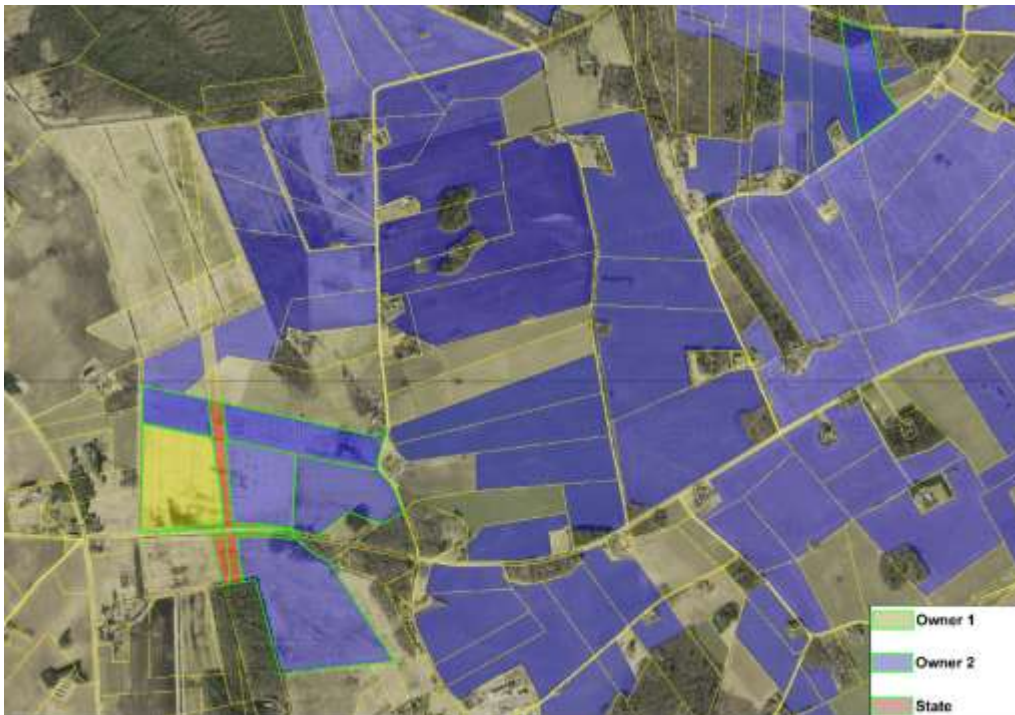
First reallocation included six parcels: one of them was state owned and the others were privately owned. The need for reallocation occurred because of the fragmentation of arable land due to Rail Baltica railway. Situation before the reallocation is showed in the figure below. State owned land is showed in color red, the land owned by private owner 1 is showed in color yellow and land owned and used by owner 2 is showed in color blue. The parcels included in reallocation are delimited with green in the figure below.



Without the possibility to reallocate the land there would have occurred the situation that five of the privately owned parcels would have been fragmented. Also there would have been a problem with the access road to one parcel.



Since the reallocation of land in Estonia is only voluntary, all the land owners had to agree with the reallocation plan and needed to agree to pay compensation between the owners. The whole procedure took almost 1,5 years and the outcome is shown in figure below.

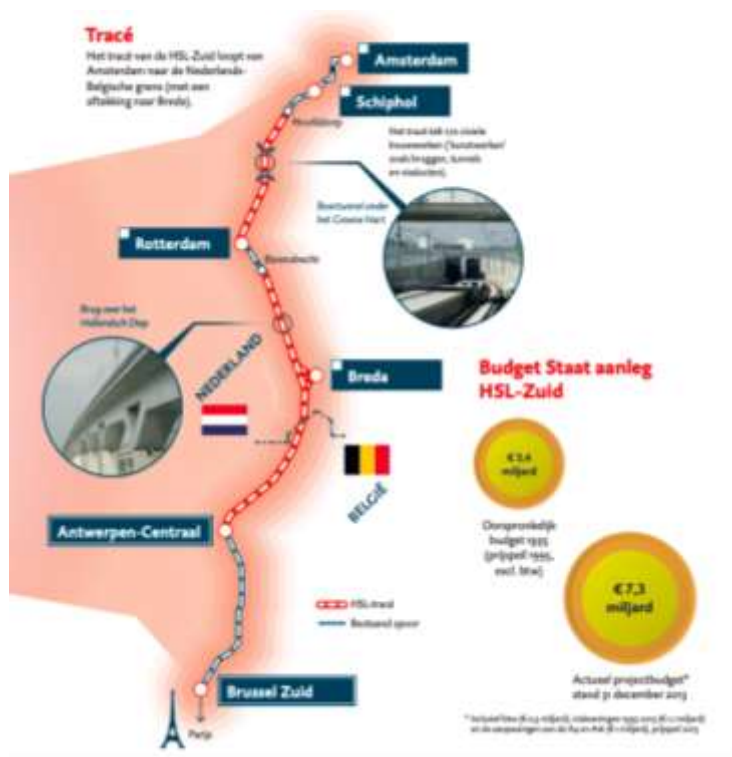


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2. What were the experiences in other countries, like the Netherlands.

In the Netherlands a High-Speed railway was planned in 1996 of 85 km between Amsterdam International Airport and the border of Belgium. Budget € 7,3 billion. Partly voluntary land acquisition, land consolidation and at last expropriation.



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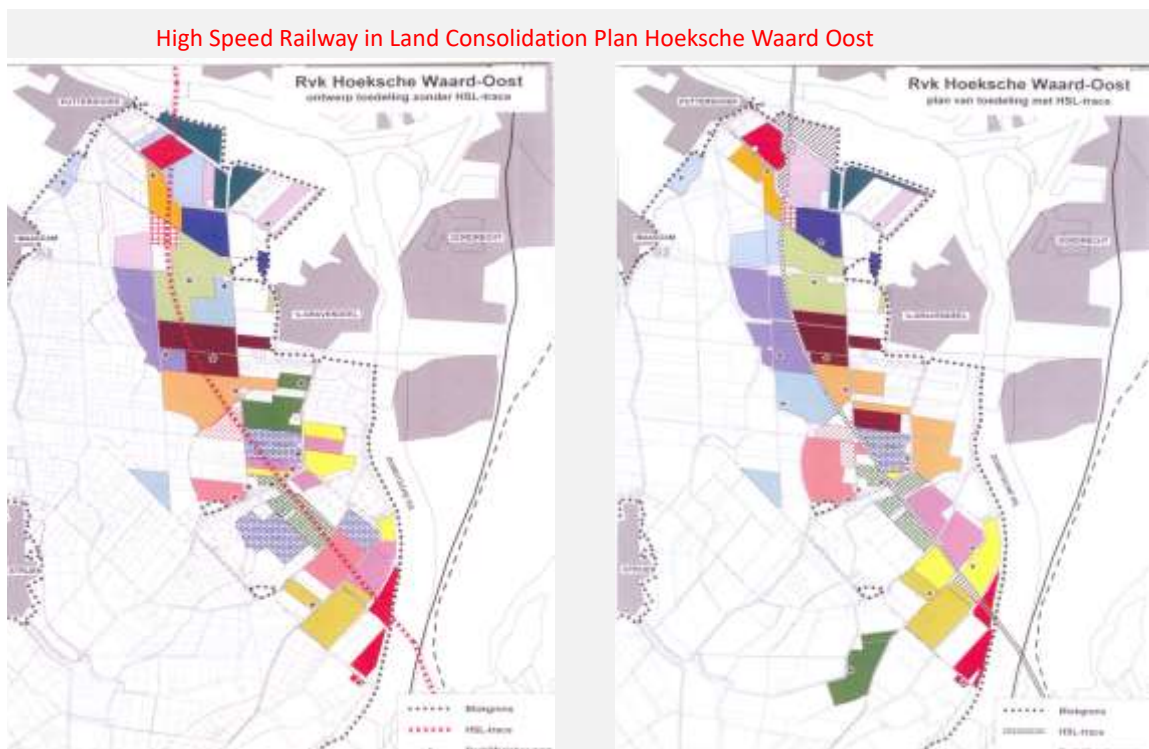
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An example of voluntary land consolidation was in the Haarlemmermeer, close to Amsterdam International Airport. With the voluntary land consolidation 4 km² came available. It was a cooperation with local farmers and Farmers Association LTO and the municipality.

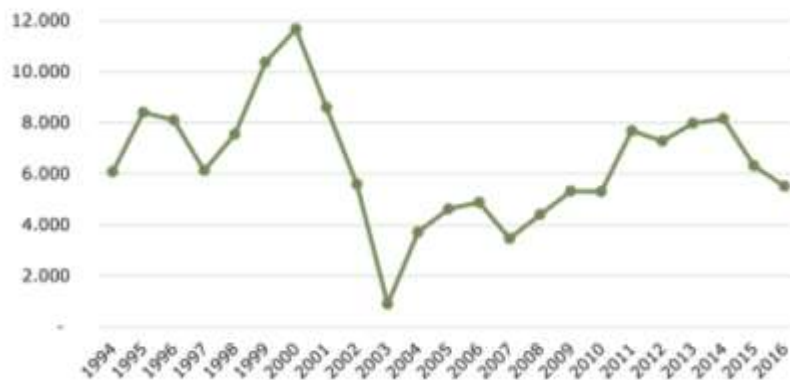
Total 11 owners reallocate 287 ha

Independent Foundation for Land readjustment STIVAS did the work of negotiating and to realize the reallocation plan. Essential was that the property of the Municipality of Haarlemmermeer (28 ha) was available to exchange. The transaction costs were paid by the Railway company, Prorail.

Mandatory landconsolidation Hoeksche Waard Oost is still ongoing when the plans for the railway trace were made. The landconsolidation commission decided to implement the trace when extra budget funded from the railway company Prorail for exchange the parcels and building new farmhouses. More than 100 ha was available to exchange. More than 8 km of the trace was made available with the exchange of 6 farms within 2 years.



In the Netherlands is voluntary way of land consolidation is common mainly for the optimisation of the agricultural structure. The average amount of ha's to be consolidate on a voluntary basis is 7100 ha per year (2012-2016). This is 0,38% of the total amount of agricultural land in the Netherlands. The dip in the graphic 2000-2003 is caused because of a decrease in the landprices and the decrease in land mobility.



Amount of Ha's agricultural land by voluntary land consolidation in the Netherlands 1994-2016 (Kadaster, WUR 2017)

Not only of voluntary basis but also landconsolidation on mandatory way is possible in the Netherlands(Law on Development of Rural Areas). In the period 1950-2000 more than 100 landconsolidation project per year were in preparation or implementation (300.000 ha) The average time of a project from preparation to finishing the implementation was 10-20 years. Because of this timeline the enthusiasm for the mandatory way was declining. In 2021 only four mandatory landconsolidation projects are in implementation. The provincial government plays a key role in decision making to start a mandatory project. The fear of the executive body of a provincial government for the timeline and to get enough support of the landowners makes it not popular to choose for the mandatory way. The mandatory landconsolidation is often used in projects with an integrated approach with objectives on nature-protection areas, climate adaptation, water-management and agricultural structure. In the public opinion there is a growing interest in mandatory landconsolidation 3.0 because of the pressure on the open space for different demands and the idea that only on voluntary way the objectives are not possible. .

3. What can we learn from the other countries like Latvia and Lithuania

In Latvia and Lithuania it was decided to expropriate or to do compulsory land acquisition for the trace and not using the possibilities for land consolidation.

In the Master Thesis of Andželika Ubartienė (2019, the Vytautas Magnus University in Lithuania) she did research about the land plots remaining after executing compulsory land acquisition for public purposes for Rail Baltica project in the territory of Pasvalys district municipality (close to the border of Latvia).

Her conclusions were:

- After compulsory land acquisition for public purposes, there will be better connection of access road between the existing land plots, but it will lengthen the communication

time between the land plots on both sides of the railway. It will reduce the areas of arable land and thicken the local road network in Pasvalys district municipality. Dense road network will aggravate the further enlargement of land plots.

- Further use of irrational land plots could be addressed in assessment of the following alternatives: at first, irrational small land plots could be acquired by the State, execute individual land plots formation and restructure projects or develop complex land consolidation projects by exchanging state land with private land seeking to enlarge farmers plots, optimize the local road network and address other tasks of rural development and environment protection.

In 2018 Laura Mockutė and Giedrius Pašakarnis did research about the impact of the land acquisition of the Rail Baltica. Their main conclusion is: The results of the study revealed that there will be long-term benefits provided for the state's economy, but the project will affect rational land use. The railway will have a direct and indirect impact on land parcels.



For land plots divided into two sections, access roads were designed, but long- distance rides for farmers are not worthwhile. It was noticed that land abandonment is threatened on such land. Rail Baltica project should follow land consolidation project instead of acquiring land for public needs or land consolidation should start right after Rail Baltica project will be finished.

CONCLUSION:

Despite of the possibility of land consolidation in Estonia, the main landowners decided to choose for money instead of compensation in land or land consolidation. The main reasons for the decisions made was that the option of the motivation fee is very profitable for small parcels. Also the experiences with land consolidation in Estonia was for more than 20 years ago so the landowners were not used to choose for this option. Hopefully the experiences with land consolidation in the future, because of the land acquisition for the Rail Baltica, can be an encouragement to use the instrument of land consolidation. Research in Lithuania learned that compulsory land acquisition will affect rational land use. There a difference between parcels with forest and agricultural land. The railway will have a direct and indirect impact on land parcels and the use of the parcels.

Further research is needed to learn more about the impact of the Rail Baltica on land use, land fragmentation, abandoned land, less accessibility of the parcels and the experiences with land consolidation..

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BIOGRAPHICAL NOTES

Reelika Piik, is a senior expert on land acquisition in the Estonia Land Board. She obtained her degree at the Estonian University of Life Sciences in Tartu. She is studying for her Masters on land management at the Estonian University of Life Sciences. Her main task nowadays is the land acquisition for Rail Baltica project in Estonia.

Jan Spijkerboer is senior advisor on land management and land acquisition at the Netherlands Cadastre, Land Registry and Mapping Agency. He obtained his bachelor's degree on land management at the International College on Land and Water-management Larenstein (1983) in the Netherlands. He is a certified appraiser on agricultural land and buildings (Vastgoedcert and NRVT). In his earlier career he was working as head of the Land acquisition department in the Province of South Holland at the Ministry of Agriculture, Nature and Food Quality (Dienst Landelijk Gebied).

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