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Working Party on Land Administration

WORKSHOP ON MANAGING AND DEVELOPING
EFFECTIVE LAND REGISTRATION AND CADASTRAL SERVICES

Report prepared by the delegation of the United Kingdom
in cooperation with the secretariat

Introduction

1.   The Workshop on managing and developing effective land registration and cadastral services took place in London (United Kingdom) from 23 to 24 September 1999. It was organized by Her Majesty's Land Register.

2.   Representatives of the following countries participated: Albania, Armenia, Austria, Belarus, Bosnia and Herzegovina, Canada, Czech Republic, Denmark, Finland, Georgia, Germany, Greece, Iceland, Latvia, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom and United States.

3.   The Minister responsible for Land Registry, the Lord Chancellor, Lord Irvine of Lairg, opened the Workshop. He welcomed the delegations and made particular reference to the delegations of countries in transition. It was stated that nowhere was the challenge of restoring private land rights for individuals and businesses and restoring too the freedom to acquire, transfer and dispose of those valuable private rights more dramatic than in the countries of central and eastern Europe.

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4.   Mr. T. Beardsall, Acting Chief Land Registrar, delivered a welcome address on behalf of HM Land Registry.

5.   Mr. G. Vinogradov, representative of the ECE secretariat, made an introductory statement on ECE land administration activities.

6.   Mr. H. Onsrud, Chairman of the ECE Working Party on Land Administration, reported on its ongoing activities, particularly its programme of workshops.

7.   The following participants were elected chairpersons and moderators:

Session I: Mr. J. Manthorpe (United Kingdom), Chairperson
             Mr. H. Auer (Austria), moderator.

Session II: Mr. P. Dale (United Kingdom), Chairperson
             Mr. G. Muggenhuber (Austria), moderator.

Session III: Mr. H. Onsrud (Norway), Chairperson
             Ms. B. Lipej (Slovenia), moderator.

Session IV: Mr. J. Ratia (Finland), Chairperson
             Mr. J. Wolters (Denmark), moderator.

8.   The following experts presented basic reports:

Session I: Mr. B. Kjellson (Sweden); Mr. K. Young (United Kingdom);
             Ms. M. Laha (Albania); and Mr. O. Ingvarsson (Iceland).

Session II: Mr. T. Beardsall (United Kingdom); Mr. M. Magis (Netherlands);
             Mr. Z. Galic (Bosnia and Herzegovina); and Mr. G. McGrath
             (Canada).

Session III: Mr. J. Ratia (Finland); and Mr. D. Stanfield (United States).

Session IV: Mr. D. Harris (United Kingdom); Mr. A. Overchuk (Russian
             Federation); and Mr. J. Kaufmann (Switzerland).

9.   On Friday, 24 September, a technical visit took place at the Land Registry's Headquarters in Lincoln's Inn Fields. The delegates saw demonstrations from the Ordnance Survey Agency, the Registers of Scotland and from HM Land Registry. These demonstrations showed the latest developments in the land administration services that each of these agencies was providing to its customers.

CONCLUSIONS AND RECOMMENDATIONS

Session I: Key aspects of land registration and cadastral legislation

10.   Role of Government. Governments should ensure that laws facilitate the operation of a land and property market and enable a mortgage market to function. They should ensure that citizens enjoy security of tenure. In particular laws must define legal forms of land tenure, distinguish between real and personal property (immovable and movable property) and define registrable rights other than ownership such as easements.

11.   Publicity and openness. The law should require a land register to be open to public inspection. This promotes a better property market performance and lower transaction costs.

12.   Guarantees and indemnity. To ensure confidence in the market, and security of tenure for citizens, laws should ensure that land rights are guaranteed. This should be done by the State directly (as in most countries) or by other guarantees available to the citizen. Title insurance is an alternative, but is generally more expensive and unnecessary once a title register is established and functioning well. Statutory indemnity systems work well where economies of scale and established registration practice exist.

13.   Boundaries. History and the origins of land systems in different member States have resulted in different systems for the registration of boundaries. All depend on good mapping. Where laws and systems have become well established and understood by users no change is recommended. But for those member States still considering how best to develop their registration and cadastral legislation, the alternatives should be considered carefully, particularly where cost is a significant factor. Precision is expensive and often unnecessary for the normal use and enjoyment of land.

14.   Property identifiers. All land and property should be identified by a single numeric identifier. Where possible this should be prescribed by legislation and conform to European and international standards. Agencies within a country should all use a common land identifier.

15.   Information access. Increasingly customers need and expect fast access to land information in order to make decisions. Computerized registers, maps and updating systems now make it possible for on-line direct access systems to be developed. Computerized land information held by different organizations should be structured and identified in such a way that one-stop access becomes increasingly available to users. The potential offered by the Internet, electronic commerce and globalization must be considered in formulating laws for the future development of land registration and cadastral systems.

16.   Restrictions on ownership. In many member States there are few restrictions on who can own land. Where possible, land laws should seek to

remove barriers to ownership where to do so can contribute to the economic and social development of the country.

17. Mortgages. Investments, both at national but also at citizen level, depend on the readiness of banks and other institutions making loans against the security offered by registered land title. Legislation should provide for clear and secure procedures for mortgage registration in the land register. This is essential for inward investment and for the internal development of property and businesses.

18. Fees. Governments should ensure that statutory fee levels are not set at so high a level that they discourage activity in the land and property market. This is particularly important where titles are being registered for the first time in countries in transition. Where systems are established and functioning well, national policies should determine whether fees should be held at the lowest level consistent with an acceptable service or should be able to generate some profit. Generally, all systems should aim to move to self-financing status.

19. Definitions. It is important that the terms countries use in their land registration and cadastral systems should, where possible, follow a common definition and understanding. In particular the commonly used terms land, immovable property, buildings, and property should always be defined in the land and property laws of any country so that their exact meaning is clear.

20. Condominiums. A high proportion of people in urban areas live in flats (condominiums). One of the problems in privatizing individual flats has been defining and ensuring the maintenance of the common and shared areas. Although registration of these areas into a shared ownership scheme cannot necessarily resolve the problems of maintenance, it is necessary to establish laws and procedures which make clear where the responsibilities lie. The ECE Committee on Human Settlements has decided to conduct a study and prepare practical guidelines for the organization and operation of housing condominiums. The Working Party on Land Administration will continue to contribute to this study. It will take into account the experience in Iceland and other member States whose systems have been shown to be working well.

21. Model legislation. Recognizing the great importance to the developing information society, the Working Party on Land Administration should include in its work-plan the drafting of model legislation suitable for adoption by existing and potential EU member countries covering publicity, openness and distribution of the data of land registry and the data of the cadastre of real estates.

Session II: Delivering effective land registration services to the public

22. Member States now give considerable emphasis to improving management in government agencies and ensuring that the customers receive the services they require. During the past decade land administration has become increasingly focused on the service to the public. Most public organizations have slowly

changed from fulfilling governmental expectations alone to developing as a customer-oriented information source.

23.   The discussion highlighted the need for:

       (a)   Streamlining the organizational and legal framework;

       (b)   Ensuring adequate human resources through training;

       (c)   Developing financial processes with the aim of full cost recovery; and

       (d)   Improving technical processes to achieve successful business results.

24.   Future organizational challenges. At the beginning the implementation of land administration often focuses on an acceptable service at minimum cost. The challenges and key to successful land administration systems are:

       (a)   <u>How to meet the demand for human resources</u>? The training process within the organization must be supplemented by external development and specialist training;

       (b)   <u>How to provide infrastructure and financial resources? How to streamline business processes and introduce innovation in organizations which tend to hold on to traditional practices</u>? People with experience from outside the organization can help to overcome this resistance;

       (c)   <u>How to involve private structures</u>? The private sector represents a source of energy and enterprise which, providing there is appropriate funding, should be included in every implementation plan;

       (d)   <u>How to become a customer-oriented access point of information in partnership with other information and service providers</u>? Coordination with other government land information agencies is essential to ensure that integrated services to the public are developed.

25.   New requirements. There are common and significant changes in established land administration organizations over time. Whilst the essential role of 'keeper of an accurate land register' remains at the heart of their responsibilities, their role as providers of information has increased as public expectations and requirements have increased. As a consequence of the changing market structure, business processes and organizational structures have to be strengthened instead of relying on monopoly positions. For instance, new points of access such as the Internet or private providers require a reappraisal of the traditional structures of regional and branch offices. The priorities for the development of land administration services must take account of:

       (a)   The impact of the "information society" on land administration;

(b)   Higher demand to manage user expectation;

(c)   Higher demand to take over market risk;

(d)   Faster access to information;

(e)   Increased but appropriate information technology development;

(f)   Organizational change; and

(g)   Increasingly critical and professional "customers" instead of "users".

26.   The Workshop recommended that:

(a)   Government should ensure that land administration services are provided, their main roles being design, structured planning, contracting out, supervision and auditing (quality assurance);

(b)   Land administration agencies should always involve the private sector in the implementation and maintenance of land administration systems. The extent of private-sector involvement needs to be carefully considered against each country's individual circumstances;

(c)   Performance measurements should be introduced into business processes in land administration agencies to evaluate whether the required results as well as sustainability have been achieved.

27.   Regarding the business processes, the Workshop pointed out that:

(a)   Business processes are central to land administration;

(b)   The business process involves people, procedures, and perhaps technology, leading to a product or service;

(c)   Each process has a goal, significance and value to the customer or client;

(d)   It is necessary to ensure sufficient human, physical and financial resources are allocated;

(e)   The process must be managed effectively;

(f)   Process performance should be measured periodically; and

(g)   The business processes must be reflected in an appropriate training programme.

<u>Session III: Land rights issues in the Balkans</u>

28.   Establishing secure and functioning systems of land rights in the Balkan region is a high priority for ECE. Assisting in this task, and building the institutions to support the new systems will be a feature of the ECE Working Party on Land Administration's work-plan for 2000-2001. Recognizing the importance of assisting in the Balkan region, ECE appointed a senior representative, Mr. Jarmo Ratia of Finland, to work as its focal point on land administration issues in the Balkan region. Following the presentation and Workshop discussions, these particular recommendations emerged:

        (a)   Coordination. Coordination of foreign assistance between international and European bodies and donors and among the countries of the Balkan region is essential to avoid duplication and misdirection of effort;

        (b)   Framework for action. All activities should be undertaken within the framework of an overall land administration master plan for each of the countries in the region and these should be administered by national coordinated entities;

        (c)   Local resources. The master plan as well as the consequential activities concerning legislation, mapping, registration, institutional building, land information systems (LIS), etc. should work closely together with local experts and resources in developing systems;

        (d)   Implementation. The implementation of the land administration master plan should be based on both short- and long-term strategies to ensure, first, early stabilization, but also enduring effectiveness for the systems that are developed;

        (e)   Training. Training and twinning of local resources should be an important part of the foreign assistance programme.

<u>Session IV: Land registration and cadastral development into the 21st century</u>

29.   The Workshop considered how the initiatives already in progress, and those that are planned, were likely to transform land administration services and delivery in the new millennium. It identified the following key issues for the next 10-15 years for countries in transition:

        (a)   Focus on people's basic requirements:
            ·   Secure tenure for the benefit of investment and peaceful living;
            ·   Easy access to information;
            ·   Realistic costs for surveying and registration services;
            ·   Best practice in land administration;
            ·   Knowledge of the land administration products and services offered;

      (b)   Focus on the prerequisites for accession to the European Union:
- Early completion of land reform;
- Ability to document crop areas, in view of the subsidy policies of the European Union;
- Establish fewer and larger farms;
- Meet legal requirements;

      (c)   Focus on flexible policy and administration:
- Institutional cooperation and extended cooperation with the private sector;
- International cooperation;
- Identifying needs and resources;

      (d)   Possible development of the cadastre:
- Extended definitions of cadastral objects in an international context;
- Extensive complete information on rights and restrictions on properties;
- Amalgamation of maps and registers.

30.   The Workshop also put forward recommendations for the short term, for the long term and for ensuring the security of records. In the short term countries in transition that apply for accession to the European Union should aim to implement the EU requirements and finish their land reforms as soon as possible, even if there might be a conflict between these requirements and the countries' needs for establishing land information systems in the urban areas. The focus should be on the basic need for secure tenure for citizens and companies.

31.   In the long term, countries in transition should improve the effectiveness of land administration and cadastre by establishing 'one-stop shopping', using the opportunities provided by information technology, balance the fees for land information services and provide extended access to information. They should also develop cooperation between the public and private sectors and use the strengths of both sectors for the overall benefit of the country. Moreover, they should provide international access to national information in order to improve trade and investment.

32.   The Workshop recognized the vulnerability of land administration records to fire, earthquakes, the ravages of war, computer viruses and the potential threat of year 2000 computer bug. The cost of replacing such records in the event of a disaster would be high, as would the social and economic costs that would arise from the destruction of land records. The Workshop therefore recommended that the ECE Working Party on Land Administration should encourage its members to review their record security systems and share their experiences in cost-effectively maintaining disaster copies of the land register.