

IV. LEGAL FRAMEWORK

Introduction

Developing an adequate legal framework for the housing sector is one of the major tasks in the transition from planning to markets. Lithuania has made significant progress in establishing the key legal documents that enable the operation of housing markets. At the risk of over simplifying an apparently very complicated process of legal adjustment, major acts affecting the housing sector are identified in **figure. X**. The analysis focuses on major changes introduced in the legal framework that affect owner-occupied and rental housing, as well as the development process. Special emphasis is placed on legal reforms affecting the financial aspects of housing – subsidies, taxes and credits.

An important act for the housing reform was passed in 1992. The Law on the Provision of Dwellings for Citizens sets the framework for transition from a centrally planned to a market-based housing system. According to the Law, each citizen has the right to housing, either through homeownership (new construction or purchase of existing housing on the market), or through renting from municipalities or other legal entities. The number of houses or flats, as well as their size, is not limited. Citizens may build their own house/ flat, or establish a housing construction association, which operate according to municipal by-laws. Restrictions on private ownership have been abolished. Citizens are allowed to own, dispose of, rent or mortgage their residential property. Furthermore, limitations on mobility in larger cities, including Vilnius, have been abolished.

The housing registration system has been revised. Previously registration was linked to housing need based on housing consumption lower than 5 m² per member of the household. Waiting lists for housing provision were drawn up in State enterprises, organizations and cooperatives for housing construction. At the end of 1987, 143,700 applications from families and individuals were registered. According to the Law on the Provision of Dwellings for Citizens, municipalities must maintain a register of households in need of housing. The waiting lists in early 1995 included 98,500 households (**table 25**), 92,500 in urban areas, 6,000 in rural areas. By early 1999, there were 104,972 households on the waiting lists. Estimates suggest that social support might be extended to 10 per cent.

Other important regulations for the housing reform are the Lithuanian Civil Code and the Housing Code approved in Soviet times. At present, a new law on housing is under preparation. Interviews with ministry officials indicate that regulations related to housing ownership, management and operation are also being prepared.

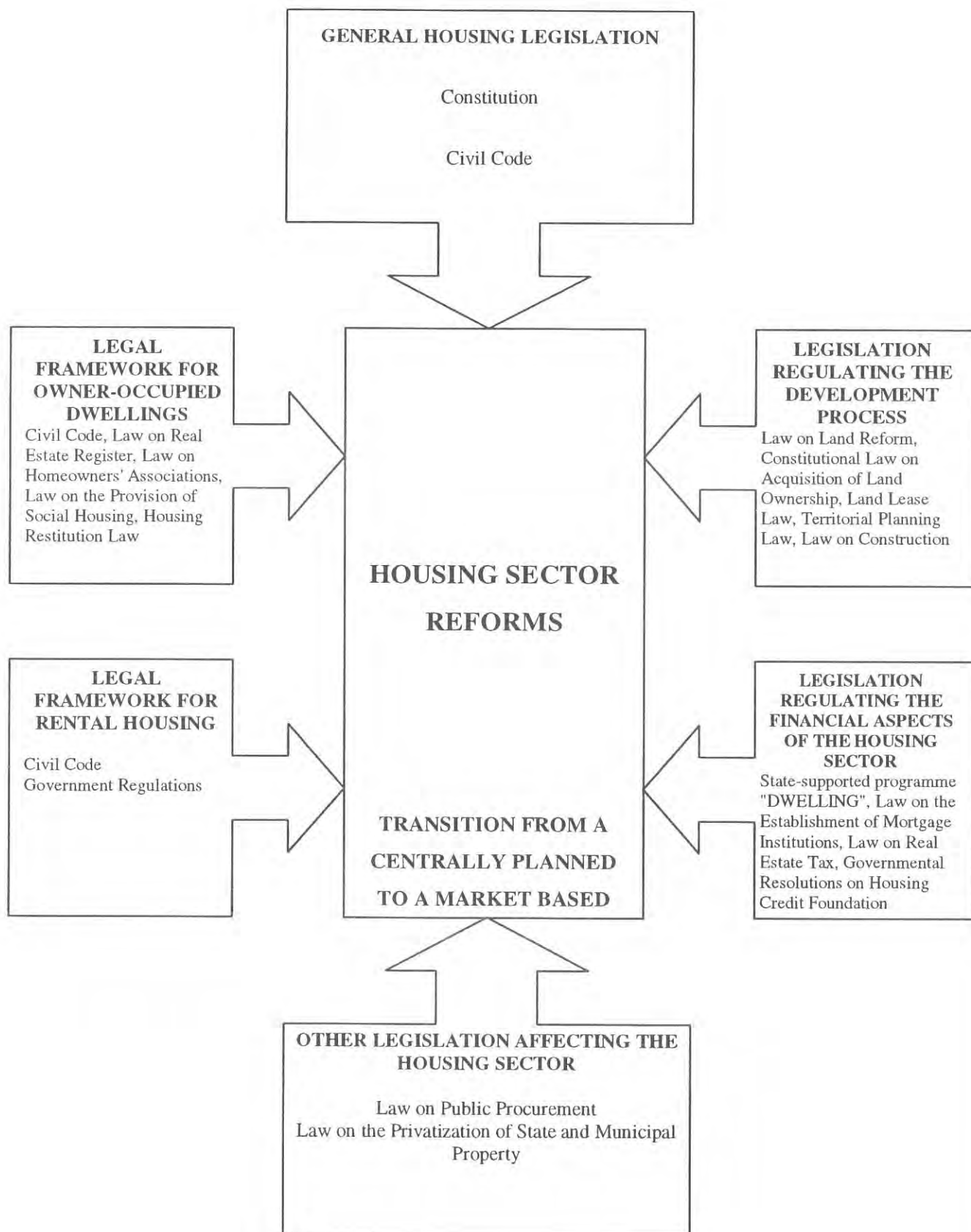
A. Privatization and restitution

The Law on the Privatization of Dwellings (1991) gave citizens the right to “privatize” municipal or State-owned rental housing. Privatization was implemented very quickly, with 77 per cent of the housing stock being transferred to sitting tenants by early 1995. Buyers could proceed in the following ways:

- Buy making a single cash payment;
- Buy using vouchers for up to 80 per cent of the price;
- Buy in instalments, with a minimum down payment of 10 per cent of the price.

By 1996, 22.6 per cent of the dwellings were privatized through cash payments and 76 per cent through vouchers. The 'right to buy' had to be requested before 1 July 1998. It should be noted that *privatization legitimized existing housing inequalities*. Some of the residents were entitled to “privatize” a room in a hostel, while others had the chance to privatize good-quality, spacious flats. In other cases, the new owners acquired a liability rather than an asset, given the massive need for investment in repair and renovation.

Figure X. Housing legislation



A law on the order and conditions of restitution of real property was passed in 1991 and went into force in June. The Restitution Law returned nationalized property to the former owners or their heirs (see also **chapters I and II**). It also specified payment of compensation (cash, vouchers or real estate) if the enforcement of property rights was physically impossible. Land within Vilnius is restituted within a limit of 1 ha. *The implementation of restitution has been problematic.* In 1998, the rights to residential houses were restored to 4,565 claimants out of 8,544 (or 53 per cent). Eviction of tenants in these properties normally causes tension. By 1999, there were still 7,727 households that had to be evicted; while 2,973 tenant families had been relocated.¹ Resolution No. 805 (October 1992) on the Housing Programmes for Tenants of Dwellings Returned to Their Owners provides the legal framework for solving these problems. During 1994, 6.2 million litai were allocated to provide alternative housing to tenants affected by restitution, supplemented by 9 million litai in various forms of targeted assistance. In 1998, 21 million litai were allocated for evicted tenant families. In all 51.4 million litai have been spent since the adoption of the Law.

B. Owner-occupied housing

Housing markets and real estate registration

A number of changes in the legal framework facilitate the operation of the real estate market. There are no restrictions on any Lithuanian or foreign entities owning and purchasing real estate, including residential properties. However, *ownership of real estate is separated from ownership of land* - the property right to buildings does not itself create the property right to land on which these buildings are located. According to article 255 of the Civil Code, contracts for the sale and purchase of buildings must be concluded in writing and must be certified by a notary. The following main documents should be presented to the notary:

- The original documents of the initial acquisition of the building;
- The inventory file of the building (the legal registration of the building will be carried out only after its technical inventory);
- Different certificates on building issued by the State enterprise of Land Cadastre and Register (one is issued as permanent evidence of ownership and the other is issued for certain transactions with the property (sale, rent, etc.) and is valid for 15 calendar days);
- The purchasing company's registration certificate;
- The decision of an authorized governing body of the company to purchase the building;
- The power of attorney issued by the company to the person signing the contract to sell or purchase the building.

The last three items apply only to sales or purchases of buildings where at least one party is a company.

In September 1996, the Law on the Real Estate Register was adopted. It came into effect on 1 April 1997 and was amended in October 1997. It specifies that the ownership and other property rights (except mortgages) become officially enforceable after their registration with the central data bank of the Real Estate Register. The State Enterprise of Land Cadastre and Register manages the Register.

The following are registered there:

- Plots of land, buildings, flats in multi-storey houses, other premises and engineering equipment which are registered with the National Inventorization, Projecting and Service Bureau;
- The rights to manage the real estate, including the rights to rent it long term (more than three years), rights of use, easements (except those specified by the Planning Law);
- The restrictions on rights to real estate - repossession, restrictions on changing its main purpose, insolvency of the owner, a condition not to transfer the real estate to a third person;
- The obligations of the owner of the real estate - e.g. repayment of debt for the purchased property.

¹ Department of Statistics, *Statistical Yearbook of Lithuania 1999* (Vilnius, 1999).

The right to register real estate and the above-mentioned rights is conferred on natural and legal persons purchasing or acquiring the rights to use real estate according to Resolution No. 85 of 22 January 1998². The register is open to the public, and every person in accordance with the specified legal procedures can have access to real estate information.

New regulations enable the exchange of data of the Real Estate Register and the Mortgage Register. Credit institutions having registered a lien on real estate (mortgage) submit the registration data to the Real Estate Register.

Management and maintenance of owner-occupied housing

New legal acts regulating the operation, maintenance and renovation of privatized residential houses and flats were approved in 1993. *The Law on Homeowners' Associations (1995)* sets the framework for the division of responsibilities in multi-family buildings where ownership was transferred to the sitting tenants. This act gave cooperatives the opportunity to register as homeowners' associations, which essentially eliminated cooperative ownership in Lithuania. The establishment of associations in privatized buildings is not compulsory. Research indicates that less than 10 per cent of multi-family housing stock in Vilnius has homeowners' associations. Interviews with the Housing Credit Foundation and the Vilnius Associations of Homeowners suggest that many organizational, social and financial challenges persist in the implementation process. More specifically the post-privatization stage is marked by several major problems:

- 'The right to buy' has drastically reduced the supply of social housing;
- Municipalities have failed to control the conversion of residential into non-residential space;
- Ownership rights and management structures for the common elements in multi-family housing - land, recreational and parking places, engineering systems- have not been defined;
- Ownership of land and buildings is separated -- land is owned by the State, while flats are private;
- The administration of newly privatized multi-family houses is still in the hands of municipal enterprises, which is not the most efficient way of administration;
- Due to the lack of funds, maintenance and management is carried out by municipal maintenance companies in an ad hoc manner;
- The decision-making power of homeowners' associations is restricted by the unequal financial status of households in one building.

Revised draft legislation governing the homeowners' associations will remove some constraints, but some of the main problems are related to attitudes, lack of information and experience, and low incomes of new owners. People are generally not prepared to assume responsibility for common areas, despite the need for substantial renovations to heating systems, roofs, windows and doors in most of the multi-family housing stock. It is critically important to develop a significant number of well-managed, democratically functioning homeowners' associations, which undertake energy-related repairs and take out-and-repay-small loans. This will require developing a new capacity in both the private and governmental sectors.

Municipal housing maintenance enterprises still have a monopoly on the management of the privatized housing stock. Vilnius has 20 such enterprises, each of which was granted a monopoly in one city district (see **chapter V**). These enterprises perform three main functions:

- The collection of some municipal taxes and verification of subsidies;
- The collection of monthly charges on behalf of utility companies;
- Limited repairs and upkeep.

Resolution No. 1300 adopted in 1995 sets the standards for operation and the tariffs charged for the maintenance and management of residential buildings. Tariffs can be locally adjusted. In Vilnius fees reportedly range from 0.50-0.60 litas per m² per month. Provisions exist to establish a reserve fund for capital repairs. Annual contributions are expected to be 0.5 per cent of the value of the dwelling. (High inflation in 1992 eroded the funds and the system is not operational at the moment.) According to the Law on Local Government, maintenance of multi-family buildings needs to be organized by the municipal enterprises. Prior

² Rights of ownership and other rights registered with the Register on Data of State Land Cadastre and State Inventorization, Projection and Service Bureau remain valid until they are registered with the Real Estate Register.

to privatization tenants signed a contractual agreement with the municipalities in that regard. However, if a homeowners' association is established, residents have the right to choose any company to provide the services. Often private firms have no guarantees for the contract work and de facto choices remain limited to the municipal enterprises.

C. Rental sector

The Civil Code regulates property relations, objects of public and private ownership, objects of municipal ownership and the implementation of both State and municipal ownership rights. Its chapter 13 deals specifically with municipal housing and landlord-tenant agreements. Tenants of municipal housing have the right to sublet residential premises. Changes in the legal basis of public rental housing have been insignificant. Although subsidies for the maintenance of State-owned housing were abolished in 1992, rental fees for State-owned dwellings increased insignificantly. According to Resolution No. 1432 of December 1997, municipalities determine the rent, which fluctuates between 0.16 - 0.25 litas per m². Rent for State housing makes up only 1.5 per cent of the average household income. In most cases, rental units are dispersed in the now privatized municipal housing stock. Maintenance companies charge marginal fees for upkeep (Resolution No. 704, 1992) and reportedly resort to patchwork maintenance and emergency repairs.

Some regulation of private renting, though rather vague, does exist. The Civil Code specifies that private property can be rented without any restrictions on rent levels. Leases are drawn up, provided that the property is rented for a year or longer. Both parties need to give three months' notice in the case of a non-fixed term agreement. Termination of a lease for non-payment is enforceable through the courts.

D. Legislation regulating the development process

Landownership

The Law on Land Reform (November 1991) enforced a process for land provision, restitution, privatization and compensation. The Government adopted the Resolution on the Nominal Price of Land, Forest and Water Reservoirs, outlining conditions and prices for State procurement. The Resolution also outlined a procedure for the valuation of land and the payment of compensation. Furthermore, *the right for expropriation of privately owned land was limited*. The State could sell agricultural and urban land to private citizens. Members of collective garden associations were allowed to purchase land for residential construction. The principal statutes for land use in urban areas were defined in the Resolution on the Process of Sale and Rent of Non-agricultural Land (February 1992). The Resolution provided for the purchase of plots designated for economic and commercial activity.

The Resolution on the Renting of State Land was passed on 13 March 1992. Lithuania's land reserves are divided into privately and publicly owned land. Land users can be organizations and legal persons (or entities) using public land on a leasehold basis. Owners of cooperative houses or multi-family homeowners' associations do not own the land on which their housing is built.

In June 1996, article 47 of the Constitution was supplemented with provisions that allowed municipalities, other national entities, as well as foreign entities engaged in economic activity in Lithuania, to acquire plots of land for non-agricultural activities. According to the Constitutional Law, foreign entities registered and doing business in Lithuania and foreign legal entities having established, for business purposes, affiliates or subdivisions without the status of a legal person in Lithuania, as well as Lithuanian entities (municipalities, Lithuanian enterprises having the rights of legal persons, etc.) are entitled to acquire land necessary for the operation of buildings for their direct business activities.³ The Constitutional Law on Subjects,

³ With respect to foreign entities the following conditions apply: (1) the foreign enterprise is registered in a member State of the European Union, or in a State which is a party to the European Agreement with the EU and the member states thereof, or a member of the Organisation for Economic Co-operation and Development or a member of the North Atlantic Treaty Organization; (2) the foreign State of registration (residence, control) provides equal rights to Lithuanian entities, i.e. the rights are applied on mutual basis; and (3) the foreign enterprise has the main place of business in the State of registration, lasting for at least 5 years.

Procedure, Terms and Conditions and Restrictions of the Acquisition of Land Plots established the procedures for land acquisition. *Entities may acquire plots of land owned by private persons by buying or and exchanging them; State-owned or municipal land may be acquired by public sale and purchase with or without an auction or tender.* Legal entities do not have the right to own land. A new resolution will eliminate that restriction and will encourage legal and physical entities to purchase rather than lease land in a competitive tendering process.

The practical implementation of these legal provisions was facilitated by Resolution No. 1423 (December 1998) on procedures for landownership permits. Entities may file applications for non-agricultural plots, which are, according to the detailed plans, approved under the procedure of the Law on Territorial Planning, designated for the construction of residential, industrial, commercial or other primary business activities. It also prescribes the validity of permits in case of land acquisition for the exploitation of existing buildings or new construction, as well as appeal procedures.

Land lease

According to the Law on Land Lease, Lithuanian and foreign natural and legal persons are permitted to lease land. The owners of private land and the possessors of State-owned land are entitled to lease land to natural or legal persons. The right of possession of State-owned land is vested in State institutions (county governors being the main possessors), municipalities, State authorities and State enterprises financed from the State budget. Land leases are to be concluded in writing.⁴ A notary must confirm the lease agreement of the private land concluded for a term exceeding three years. A plan of the land approved by the county Governor's administration, or a land map (scheme) in the case of a short-term lease (less than three years), constitutes an obligatory part of any land lease.

The parties to the agreement determine the period of a private land lease. This period for State-owned land is determined by the county governor's administration and may not exceed 99 years. Both private and State-owned land may be sub-leased, but only with the permission of the lessor. State-owned land may be leased with or without holding an auction, particularly in the case of leases to owners of existing buildings and structures. Auctions for the lease of State-owned land are held by the county governor's administration or by the mayor for land leases for a period up to 3 years. Resolution No. 205 (February 1999) determined the tariffs and the methodology for assessing land values in different locations. The rate is 6% of the potential sales price.

The Law to Amend the Law on Land Lease (March 1998) approved a new wording. By Resolutions No. 938 and 939, the Government changed the procedure for the payment of land lease tax, but the tax rates determined in 1996 are still valid.

Planning

The Law on Territorial Planning (December 1995) regulates different aspects of territorial planning and the inter-relationship between legal entities, individuals and public authorities involved in this process. It defines the main levels of spatial planning -- *territorial, specialized, master planning and detailed planning.*

The Government, public authorities, the county governor, municipalities, natural and legal entities organizes the preparation, coordination and approval of planning documents. Together with the landowners and users engaged in an economic or other activity on the planned territory they also implement them. Territorial planning aims to:

⁴ The standard terms of a land lease are:

- place of the object of lease, data of the State Land Cadastre and the Real Estate Register describing the leased land;
- the period of lease and the main land use;
- the terms of the use of buildings and constructions on the plot, other engineering installations and communications on the leased plot;
- the use of the underground, mineral and natural resources (except amber, oil and quartz sand);
- the special terms of land use (protection of cultural heritage and nature objects);
- restrictions on land use and easement;
- the terms of land rent payment and responsibility for violation of the lease agreement.

- Form an adequate and healthy environment for living, work and recreation;
- Establish a policy for the development of residential areas and infrastructure;
- Protect and rationalize the use of natural resources, land and cultural heritage;
- Harmonize the interests of natural and legal entities, the public, municipalities and the State regarding the use of the territory;
- Promote investment in social and economic development.

The following levels of territorial planning can be distinguished: (1) *national* (territorial plans approved by the Seimas and the Government); (2) *county* (territorial plans approved by the county governor or by public authorities); and (3) *municipal* (territorial plans approved by the municipality).

Master plans are the major documents for territorial development.⁵ They define land uses, investment priorities and the regime of economic, social and construction activities, as well as the use and protection of natural and cultural assets. Special emphasis is put on residential development. Operative planning establishes a data bank of territorial planning information to monitor investment, changing economic and social needs and impacts occurring during the implementation of the master plan. It allows for constant revision of programmes and action plans. Operative planning serves as the basis for formulating changes in the master plan and in a manner prescribed in paragraph 4 of article 23 of the Law on Territorial Planning.

Detailed plans are documents that specify restrictions on land uses and activities, construction and development requirements and land easements.⁶ Detailed planning is mandatory if one of the following actions is envisaged:

- Construction, reconstruction or demolition;
- The development of land;
- The expropriation of land for public needs;
- The use of mineral resources, a change in the use of water resources;
- A change in land use, or land area composition;
- Changes in the purpose of buildings and structures.

Article 25 sets the guidelines for public participation in territorial planning and ensures its transparency. General, detailed and special territorial planning documents must be submitted for public discussion. The general procedure includes open discussion of the plans within the community, wide dissemination of information, and exhibition of materials. Organizers are required to send a written notification to land and real estate owners whose property status might be affected by national, county or municipal projects. Special provisions ensure the transparency of approved master plans. The municipal board (mayor), the county governor and the national Government must present reports on the territorial planning activity and its results.

The Code of Territorial Planning Regulations is a system of statutory acts, regulations, technical standards and requirements. The elements of the system are adopted by the Government, individual ministers or other public authorities. They lay down the basic functional and special requirements for environmental and heritage protection, technical, architectural and urban planning.

Building regulations

A comprehensive Construction Law (September 1996) established the basic requirements for buildings, their inspection, planning, rehabilitation, repair, use and demolition. It also clarified the rights and responsibilities of all parties in the construction process, including State institutions. Certification requirements were established for persons involved in planning, design, technical supervision and construction. Since July 1997, the Law has also established building product certification procedures and imposed mandatory compliance with established standards and other requirements. *The implementation of the Construction Law was*

⁵ The following may be the subject of special planning: (1) Lithuania's land stock, including forest land, and water resources; (2) social, cultural, economic activities on the territory under planning; (3) infrastructure; (4) protected territories, their systems, natural and immovable cultural heritage.

⁶ Subject of detailed planning may be: (1) land plots and forest property; (2) territories of towns, townships or their parts; (3) village territories.

overdue. The lack of regulation has created numerous problems and uncertainties for both the investor (or purchaser of services) with respect to the cost or quality of construction and the construction firms as far as responsibility for material or project defects is concerned.⁷

A system of technical norms and regulations for the construction process has been established. The system contains close to 20 documents related to the design and construction of buildings with responsibilities assigned to Government institutions and organizations regulating various aspects of the construction process. It follows the principles and requirements of EU Directive 89/106/EEC. *Priority is given to the harmonization of regulations and certification procedures with EU standards.* The normative technical documents for construction are obligatory (approved by the Ministry of Construction and Urban Development as well as the Ministry of the Environment). Standards, construction regulations and recommendations for construction prepared by various organizations and enterprises are recommendatory.

A building permit is issued upon presentation of the construction design, prepared on the basis of detailed plans, which are proposed by a professional architect. Changes in the zoning and revisions of the master plan might be difficult and take more than six months. However, all procedures for the issuing of building permits were simplified (particularly for small houses) in 1999.

E. Legislation regulating the financial aspects of the housing sector

The legislation concerning various types of financial activities has been developed in Lithuania, although to different degrees in various sectors. Perhaps the most advanced legislation can be said to exist in the banking sector, with insurance regulation and supervision practices somewhat lagging behind. The Bank of Lithuania has sub-legislative powers in its field of competence. The Law on Insurance (July 1996, as subsequently amended) regulates the insurance business. With respect to investments by an insurance company, the legislation is detailed. A general requirement is that investment in Lithuanian assets should make up at least 50 per cent of the total investment portfolio, and that authorized capital may be invested only in (i) State and municipal bonds, (ii) real estate and (iii) bank term deposits. Government Resolution No. 739 (June 1998) prepared the basis for the establishment of a Mortgage Insurance Company in May 1999. The Company is owned by the Ministry of Finance and will insure the subsidized or 'soft loans' issued to young families on the waiting lists.

The Law on the Bankruptcy of Companies (No. VIII-270) regulates the bankruptcy procedures of companies registered in Lithuania. The legal definition of a bankrupt company is somewhat unclear -- the company is deemed insolvent when its financial liabilities exceed its assets. In addition, the legislation does not deal with individual bankruptcy, nor does it apply to individuals who cannot honour their obligations.⁸

State support for housing

The Law on the Provision of Dwellings for Citizens specifies alternatives to State support in the provision of housing. Support is limited to citizens who lack adequate housing. Priority is given to households with special needs: orphans, the handicapped, the chronically ill, the elderly, and single parents.

State support may be provided in one of the following forms:

- Credit with low interest;
- Access to municipal rental housing;
- The 'right to buy' municipal or State rental housing in instalments.

State support per household member is equal to the building cost of 18 m² of residential space. Information provided by the Ministry of the Environment indicates that most households (80 per cent) eligible for State subsidies wish to have access to low-interest credit for housing construction. Approximately 15 per cent would like to rent municipal housing, and only 5 per cent would like to exercise 'the right to buy'.

⁷ V. Vaitas, Construction and construction materials industries in Lithuania (World Bank, Washington D. C., 1998).

⁸ KPMG, 1998.

Experience suggests that only 4-5 per cent of the eligible households might be able to qualify for mortgages or construction credits with subsidized interest rate. The Ministry intends to revise the system and eliminate the waiting lists, which by mid-1999 reportedly had 104,260 households on them. Data in **table 25** reflects the mismatch between demand for State support (measured by the number of applicants) and the actual potential of the programme to provide soft loans or access to municipal rental housing. Future *changes in the Law on the Provision of Dwellings for Citizens will allow only low-income households and/or socially vulnerable people to apply for municipal housing.*

Table 25. Applications and granted State support within the framework of the Law on the Provision of Dwellings for Citizens, 1993 - 1999

| | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 |
|---|--------|--------|--------|--------|--------|---------|---------|
| Total number of applicants on the waiting lists (<i>on 1 January</i>) | 91,828 | 98,490 | 98,461 | 97,355 | 96,661 | 104,260 | 104,972 |
| - Applicants for soft loans (total, <i>on 1 January</i>) | 73,189 | 77,959 | 78,727 | 80,849 | 82,146 | 90,001 | 89,813 |
| - Successful applicants for soft loans | 25 | 740 | 970 | 969 | 1380 | 1249 | N/A |
| - Applicants for municipal rental housing (total, <i>on 1 January</i>) | 12,630 | 15,060 | 14,608 | 14,110 | 14,005 | 14,259 | 15,159 |
| - Successful applicants for municipal rental housing | 846 | 650 | 636 | 624 | 615 | 973 | N/A |

Sources: Statistical Yearbook 1999, Vilnius, 1999; Statistics Lithuania B 903, Vilnius, 1999.

Note: N/A- not available.

In special cases, support is provided to cover utility costs. For example, the Social and Labour Ministry administers heating subsidies. In 1994, financial resources were allocated from the State budget to cover arrears for municipal services for families on low incomes. Other forms of targeted State support for housing investments, subsidies and credits are identified in the following normative acts:

- 'BUSTAS' State-supported programme, approved by Resolution No. 562 of 17 July 1992;
- Law on the Provision of Dwellings for Citizens, 7 April 1992, No. 1-2455;
- Law on the Procedure of Using Grants and Other Compensation for Covering Credits for Cooperative and Individual Dwelling Construction and Other Costs, 16 May 1991, No. 1-1334;
- Resolution No. 101 (13 February 1992) on the Support Funds of the Lithuanian State and Local Self-governments for the Construction of Houses and Flats and for Preferential Credits for Citizens in 1992-1995;
- Resolution No. 311 (30 April 1992) on the Support for Dwelling Construction Cooperatives;
- Resolution No. 383 (25 May 1992) on the Use of the Resources of Citizens for Dwelling Construction;
- Resolution No. 422 (2 June 1992) on the Approval of the Rules on the Preferential Credits for Dwelling Construction.

Legal basis of the mortgage system

The Law on the Establishment of Mortgage Institutions was adopted on 16 October 1996. These institutions started their activities in July 1997. Consequently, the legal registration of property liens with the local divisions of the administration of the county governor, the State Bureau of Inventorization and Projection, the Road Police and the Ministry of Transport has been prohibited. These institutions had to transfer information regarding liens on property to mortgage institutions.

The Law provides for the following types of mortgages: ordinary, consolidated (i.e. several assets are mortgaged), in favour of a third party (i.e. assets owned by someone other than the borrower are mortgaged), maximum (i.e. secures the obligation up to a certain agreed limit), joint (several assets owned by several persons are mortgaged), and conditional (i.e. the validity of the mortgage depends on a certain event or condition). The regulations specify that the mortgagee has the right to full satisfaction of his claim from mortgaged property with priority over other creditors. If the right of ownership to mortgaged property is passed to another person, the

new owner assumes responsibility for the mortgage. Properties are mortgaged through contracts between the creditor and the owner of the property or at the unilateral request of the owner of the property. The mortgage agreement or unilateral request of the owner has to be written on a special standard form (mortgage bond), certified by the Notary Public and registered in the Mortgage Register.

The Central Mortgage Office gathers data on mortgaged property, manages the archive of the central mortgage register and transfers data to other State registers.⁹ A different procedure for satisfying claims resulting from pledge agreements has been adopted depending on the date of the pledge agreement. Claims of creditors relating to pledge agreements made before 1 July 1997 are dealt with by the district court, while creditor claims relating to pledge agreements made after 1 July 1997 are settled with mortgage institutions (art. 5). If several liens on the same property had been registered before 1 July 1997, the information transferred to mortgage institutions needs to maintain the sequence of priorities. Creditors wishing to change the sequence of priorities may apply to the courts in accordance with the legal procedure.¹⁰

From March 1998, amendments in the Law on the Establishment of the Mortgage Register set June 1998 as a deadline for the transfer of all lien agreements to the mortgage departments.

Taxation

At present residential properties are exempt from tax. Furthermore, *real estate tax* is not levied on real estate owned by:

- The diplomatic and consular services of foreign States (on the basis of reciprocity);
- Companies in free economic zones;
- Agricultural companies;
- State and municipal institutions.

A municipality may decide that a company is exempt from real estate tax or that the tax should be reduced. Article 6 of the *Law on the Real Estate Tax of Companies and Organizations, approved in January 1997, provides the framework for establishing the tax value of real estate*. A subsequent government regulation facilitates the implementation. The State Inventorization, Projection and Service Bureau evaluates the real estate of companies and organizations. The taxable value of real estate is the replacement value reduced by 50 per cent. The concept of replacement value is defined by resolution No. 440 of 28 March 1995. The methods of property evaluation were approved by Government Resolution No. 244 (14 February 1996).

Law No. 1-935 -- Tax on Inherited or Donated Property -- entered into force in January 1998. In November 1998, the Government passed Resolution No. 1330, which partly amended procedures for the calculation of the taxable value of inherited or donated personal and real assets and the valuation of assets using market prices. The taxable value is capped at 70 per cent of the market price. Taxes vary between 10 to 25 per cent of the property value. Furthermore, properties with average market prices of 45,000 litai are considered luxury property and declaration is compulsory.¹¹ Properties inherited from or donated by close relatives are exempt from tax.

Government Resolution No. 980, which in part amended Resolution No. 603 of 3 August 1993 on the Land Tax, was adopted on 31 July 1998. Land tax is charged according to the data disclosed in the Real Estate Register.

The Law on Value-added Tax, introduced in May 1994, increased the tax burden by 18 per cent. However, VAT is not levied on construction, renovation, insulation work, the design of dwellings, or engineering. Other legislation affecting the housing sector is listed in **annex III**.

⁹ In December 1998, the Minister of Justice adopted Order No. 207 on the Procedure for the Change and Deletion of Data on Lien Agreements Recorded in the Database of Mortgage Register. Furthermore, Order No. 227 of the Minister of Justice established the fees for information presented by the Central Mortgage Institution to interested parties.

¹⁰ In June 1998, the Civil Code was supplemented by article 57-1, which specifies that a transaction violating a creditor's rights, may be annulled.

¹¹ According to Resolution No. 3 of the Commission for the Evaluation of Property, dated 24 July 1998.