

Chapter V

LEGAL FRAMEWORK

A. The general legislative principles of housing reform: the Constitution, the land and the Housing code

The Constitution and ownership of property

Article 9 (para. 2) of the Constitution of the Russian Federation declares that ‘land and other natural resources may be in private, State, municipal and other forms of ownership.’ In addition, article 36, paragraph 1, declares that ‘citizens and associations of citizens shall enjoy the right of having land in private property.’ This right was further affirmed in parts 1 and 2 of the Civil Code, which is explicitly based upon the equality of participants in economic relations, the inviolability of property, freedom of contract, the inadmissibility of arbitrary interference in private matters and the guarantee of reinstatement of violated rights and their judicial protection. Yet until the passage of the Land Code of the Russian Federation in October 2001, the legal regulation of landownership relied heavily on presidential decrees and their promulgation was accompanied by the eruption of institutional conflict rather than consensus.

While existing in theory, private land property lacked an operational framework. Constitutional regulation does not have an exhaustive character; it has to be developed and specified by other legislative acts. Point 3 of article 36 of the Constitution asserts that ‘the conditions and procedure for the use of land shall be determined on the basis of federal law.’

In 2001 the adoption of the Land code helped to introduce general principles for real estate development. Its provisions cover: the unity of land and improvements; land as an object for commercial transactions; the classification of land into seven categories with regard to land-use policies; the demarcation of State property and the registration of federal property in the cadastre and real property rights in the registration system. However, these provisions have not yet been put into practice.

Until the Land Code came into force in October 2001, continual disputes arose due to the separation between ownership of land and that of buildings. As a result it was impossible to maintain a unified cadastre. Only with the enactment of the Land Code were building and land rights unified and was a federal programme created for the accounting of all objects of real estate on the basis of the land cadastre. The big problem remains to coordinate this system of registration. The Land Registry was created at the federal level but the actual management is under the regional authorities. As a result there are 89 systems of registration throughout the country. This network does not exchange data with the land cadastre.

Although the Land Code clearly affirms that land should be privatized, there is considerable municipal resistance to this. In accordance with the Land Code, individuals and entities can acquire land. If there is any problem, an application can be made to the courts to enforce this right. The implementation of this right is rendered inoperable by the lack of delimitation between federal government and municipal authorities. The result of this incomplete delimitation of property between federal and municipal land is the lack of transparency around investment schemes and an insufficient legal basis to develop a land market. Land and utility services are monopolized.

Ownership of housing and rental agreements

Following the introduction of the Law on the Fundamentals of the Federal Housing Policy in January 1993, housing relationships began to be regulated according to the different types of rights to immovable property that existed within the housing sector. These rights were codified in chapter 18 of the Civil Code. Chapter 18 eliminated a number of restrictions on acquiring residential premises into ownership, and restrictions on the use and disposition of such dwellings. However, in reality few of the

relationships in the housing sector, both the rights and obligations of owners and tenants, and the rights and obligations of maintenance and utility service providers, resemble contractual relationships as regulated by civil law.

With regard to the right to use State-owned and municipally owned residential units, the Civil Code introduced significant innovations into the rights and obligations arising under a rental agreement. Under a rental agreement for residential premises, the owner is responsible for providing the tenant with residential premises for the purposes stipulated by article 671. The next article specifies 'a social rental agreement' (art. 672). The notion of rent covers, drawing from both these articles, 'social rent', which is regulated mainly by housing legislation, and the 'rent' of residential premises governed mainly by civil legislation.

By law the tenant is responsible for the payment of housing and utilities charges. In accordance with the Law on the Fundamentals of the Federal Housing Policy (art. 15), a tenant who fails to pay for housing and utilities within six months may be evicted under a court procedure. The tenant should then be allocated another home which meets the sanitary and technical requirements of a hostel. The Civil Code reaffirms this provision for the termination of a rental agreement and the eviction of the occupants if they are unable to pay the rent (art. 687). However, the 1983 Housing Code does not contain such a provision, although the failure to pay rent is a widespread problem.

Eviction is allowed only exceptionally. The Civil Code provides that the premature termination of a rental agreement is possible only through a court procedure, in compliance with article 35 of the Constitution. In contrast, again, the Housing Code stipulates that the termination of a rental agreement and eviction are permitted by an administrative decision.

The obligation on the owner to use the dwelling in accordance with its purpose is spelled out article 288 of the Civil Code. One of a few grounds for the owner to be deprived of the property, directly specified by legislation, is its improper use (art. 293 of the Civil Code). In the case of such an infringement, the court, on the basis of a claim brought by a local self-government body, might

take a decision about the public sale of the residential premises with the compensation of the owner after the deduction of the court's cost. Thus the policy aim of preserving the housing stock is achieved by establishing the legal responsibility of the occupant to maintain the occupied residential premises in proper condition and to repair the dwelling, as stipulated by articles 678 and 681 of Civil Code, and article 142 of the Housing Code, and the responsibility of the occupant to provide for proper maintenance (art. 676 of Civil Code and art. 141 of the Housing Code).

Incompatibility of different legal acts

As illustrated above, the problem of the failure to implement the norms of civil law has resulted from the lack of definition within legislation, and contradictions between different levels of legislative acts. For example, there has been no 'legislative codification' of the constitutional principle that 'social rent' is applied only to low-income groups. Although legislation has introduced the notion 'State-owned and municipally owned stock for social use', there is no legislative definition of its allocation and use which complies with the constitutional principle, contained in article 40, of social efficiency. Perhaps most crucially the terms of the 1983 Housing Code need to be brought into conformity with newly enacted federal laws. As the most glaring example, what in the Housing Code is defined as 'rent' means 'social rent' within the Civil Code. In addition, in the Housing Code the notion of 'State-owned housing stock' includes residential premises owned by municipal bodies. Again, in contrast, the Civil Code as well as the Law on the Fundamentals of the Federal Housing Policy provides for separate notions, 'State-owned and municipally owned housing stocks.'

This incompatibility of the 1983 Housing Code with the development of market-oriented relationships has been partially obscured by the fact that new approaches have been provided by other federal laws. With their enactment the practical implementation of the Housing Code has narrowed. A number of problems that demand the introduction of a modernized housing code continue to exist, however. The 1983 Housing Code provides all citizens with the right to housing free of charge on the basis of a rental

agreement. This provision was grounded on norms of the 1977 Soviet Constitution. The 1993 Constitution of the Russian Federation, however, defined a citizen's right to a dwelling differently. Its article 40 stipulates that low-income households, as well as certain categories of citizens specified by legislation, are entitled to the provision of residential premises free of charge or at an affordable rent.

Housing privatization

Housing privatization remains one of the important factors of reforming the housing sector but replicates the approach of the Soviet-era Housing Code. The basic principles of housing privatization can be summarized as the voluntary acquiring of dwellings into ownership, the possibility to acquire the residential premises free of charge only once. The citizens' right to privatization derives from the social rental housing agreement for residential premises. In accordance with the Law on the Privatization of the Housing Stock, the tenant occupying residential premises under a social rental agreement can acquire in ownership the premises within the State-owned and municipally owned stock, with the consent of his family members. The right to privatization of a dwelling occupied under a social rental agreement is restated in the Law on the Submission of Amendments and Annexes to the Civil Code and the 2001 law on the Privatization of the Housing Stock.

Many believe that the privatization of the housing stock should continue, and that it should be free and without any time limitations. Those who support the continuation of the existing policy argue that any alteration would violate citizens' rights. The right is considered as a fundamental social guarantee. However, some believe that free privatization must be stopped, and this position is finding support in the new draft housing code.

The retention of this principle of free privatization ensures that municipalities do not have the possibility to make forecasts about the future volume of their housing stock and to develop a long-term policy for its use. Gosstroy has maintained that the issue of setting a deadline for the transfer of housing into the ownership of the occupants free of charge, raised by regional governments and municipalities, derives from this

perceived need to develop a long-term policy with respect to the housing stock that they own.

There is a necessity to amend the Law on the Privatization of the Housing Stock, to establish the right of regional governments to set deadlines for the privatization of the housing stock free of charge. This will allow regions to accommodate regional peculiarities within a long-term strategy in respect of their social housing stock, a stock which would remain in municipal ownership and would not be subject to privatization. This change is also necessary to preserve sufficient volumes of subsidized housing for low-income households. In addition, legislative restrictions should be introduced to stop the privatization of housing held under social agreements. The Law on the Privatization of the Housing Stock needs to be amended to expressly restrict the right of free privatization of houses subject to social rental agreements. This measure would eliminate one of the major constraints on the development of a rental market.

The end of the free privatization of apartments would encourage the creation of homeowners' associations. As long as buildings have mixed public and private apartments, tenants will not feel obliged to assume responsibility for the whole building, as the non-privatized apartment tenants will rely on the government for repair and maintenance work. The local government therefore remains responsible for the entire building, since there is no clear division of the common spaces among private and public tenants.

B. The delimitation of power and property: establishing the authority of national, regional and local government

It is crucial to identify the roles of federal, regional and municipal authorities in housing. The weaknesses in the delimitation of power and responsibilities between different levels of government and institutions has so far been one of the main impediments to reform. In the current political discussion two possible directions for reform have clearly been posited in opposition to one another. The first advocates the completion of privatization and the reduction of the role of municipal authority to the construction and maintenance of housing for special groups identified within legislation. In this scenario the

State would be reduced to a regulator and a provider of mortgage credits. In the municipal economy the sources of housing and utilities services would remain municipal property whilst the maintenance of networks would be undertaken by commercial companies. The consumers of such services should be homeowners' associations. The second policy advocates the termination of the privatization process and the continuation of the role of municipal authority as a de facto commercial entity.

Housing sector reforms are closely linked to fundamental changes in the functions of government authorities. An open market for services and transparent procedures for regulation of natural local monopolies presume the establishment of 'rules of the game' by taking appropriate legislative and regulatory action. Regulatory and institutional reforms will be needed to redefine both local government's role and that of private enterprises if efficiency in service delivery is to improve and if enterprises are to attract private capital for investment purposes.

At present the housing and the municipal sector has become a victim of institutional tension due to the instability and unpredictability in inter-budgetary relations between regional and municipal authorities. This relates to the amount of funding available for the housing and utility service providers, and tax sharing between regional and municipal authorities. There is a lack of transparency in the finances of the municipal economy so that there is more than usual room for argument over the municipalities' real capacity to fund federal initiatives. Federal legislation needs to be introduced to ensure that federal funding is effectively used to meet federal targets.

In accordance with the Law on the General Principles of Local Self-Government of August 1995, local authorities are the main executive agencies for operating and maintaining the housing stock and for providing most municipal services. The federal authorities have provided the legal framework and instructions on housing reform: each municipality has to implement the housing reform locally itself. In practice the Law gives the municipal authority the power to determine the most suitable administrative structure to manage the local housing. The

administration has to cover the development of new housing, and the management and maintenance of the existing housing stock.

The next phase of housing reform needs to focus on incentives for the implementation of the housing policy at the local level. The functions and scope of competence of the State authorities, local self-governments, market players and individual households should be clearly defined so that the efforts of the State authorities are concentrated solely on the functions specific to them. Particular attention should be paid to the role of the housing maintenance and municipal services enterprises, as today they continue to function largely in a non-market system, and under severe budget restrictions, with ambiguous allocations of roles and responsibilities.²⁴

Incentives for good management of the housing maintenance and municipal services enterprises are weakened by the legal features of these enterprises, including the financial relations between the enterprise and the owner-municipality as defined in the Budget Code. The incentives for enterprise management to optimize the enterprise's use of its assets is weakened because the management knows that proceeds from the sale of unused assets, or the rental of assets, would not be retained by the enterprise.

At present, the vast majority of enterprises that provide housing and municipal services have the legal form of *municipal unitary enterprises*. The Civil Code defines the unitary enterprise as a commercial organization, but one upon which ownership rights over the enterprise's assets are not conferred on the enterprise. Instead, the unitary enterprise manages these assets on behalf of the owner (the municipality) under the right of economic management. The resultant deficiencies

²⁴ The key problem areas facing the sector are: low levels of cost recovery throughout the system; large-scale subsidization of housing and municipal services in a non-sustainable system, exacerbated by the sharp drops in local government budgets and contractions in the real incomes of the population during the transition crises; rapid deterioration of the existing housing and utility infrastructure stock due to inadequate maintenance and repair, resulting from a general lack of funds; and extreme monopolization and centralization of the sector.

include the interference in enterprise management from local politicians, lack of transparency in operations, the inability of enterprise management to optimize the use of assets because of the lack of ownership control over them, and general concerns about the quality of the management. Furthermore, the management of such enterprises has to contend with the contradiction between the enterprise's function as a commercial entity providing economic services and the use of the enterprise as a vehicle for the delivery of ill-targeted social protection. Housing maintenance and utility services cannot be placed on a sound fiscal footing and operated on a commercially viable basis until the system of widespread and arbitrarily applied subsidization is explicitly financed or eliminated.

Once this has been completed, a concerted attempt can be made to place the entire system on a clear contractual footing, between municipal authority and service provider, and between service provider and consumer. At present no clear contractual relationship exists between the supplier and consumer as the municipality has to pay for the provision of services. The attraction of private companies to competition for maintenance of the housing stock is obstructed by the fact that "financial" settlements with contractors are made predominantly in the form of mutual offsets and local government securities.

An additional impediment that needs to be addressed is the problem that all contracts for maintenance are executed in a standard form which remains unchanged from year to year. The contracts, as a rule, fail to stipulate a fixed volume and list of services required from the contractor. The contractor is simply obliged to maintain the housing 'according to the standards.' Then in turn the customer does not assume any obligations for the amount and timelines of payments for a contractor's work. In practice, there is no enforcement mechanism when people do not pay maintenance charges. Although the legislation stipulates that if the tenant does not pay within six months he may be evicted, this procedure does not extend to property owners.

An important basis for any cooperation between municipalities, the suppliers of maintenance services and the consumer of those services is the establishment of housing management

associations. Management responsibility for the building can be transferred from local government to the tenants, and costs can more easily be shared out to users in a building. As is detailed in the following section, financial incentives for establishing and registering such associations should be implemented, the process of implementation needs to include the overcoming of current municipal authority reluctance to transfer land to condominium associations. To erode this municipal opposition once land has been valued, the real property taxation system should be reformed. Real property tax revenues should be distributed to a maximum degree to the municipal authorities, thus giving them a revenue basis for local development needs.

C. Homeowners' associations and condominiums

Privatization has failed to give owners in multi-unit apartment buildings effective management authority. The housing stock therefore effectively remains public housing from a repair and maintenance perspective, regardless of the percentage of apartments that are privatized. The main reasons for the slow development of homeowner management of the housing stock are: defects in the regulatory basis and inadequate support from the local administrations; complicated registration procedures; unresolved ownership issues with respect to non residential premises and land plots; and the fact that municipal authorities do not subsidize the maintenance of condominiums and provide no compensation for the payment for municipal services as mandated in the federal law.

The further growth and development of homeowners' associations calls for legislative and regulatory improvements at the federal and local levels. These improvements should address: the securing of land plots in condominiums for homeowners; the improvement of procedures for the registration of property and ownership rights in condominiums; and the granting of rent and utility subsidies to needy condominium owners.

The land held under a condominium may be owned by the homeowners in accordance with the Land Code. The Land Code, however, provides no mechanisms to implement such rights. This prevents condominiums from using the land, the

municipal authority retaining effective control. The members of the condominium cannot register the right of ownership to the land plot that they collectively own if the municipal authority does not allow them. To resolve this problem by reducing conflicting interests over the property the Ministry of Justice must delimit land in terms of the land cadastre.

At present the homeowners' associations are effectively prevented from raising funds through the use of condominium property. A condominium is classified as a non-commercial organization and should remain as such. However, as has been illustrated by a series of court cases, the municipal authority needs to be prevented from using condominium property to the disadvantage of a homeowners' association. As a legal entity, the homeowners' associations should be encouraged to use land for the benefit of the owners in a condominium.

As has been suggested throughout, the resolution of inter-budgetary problems will better facilitate the implementation of policy. Municipal authorities do not establish separate bank accounts for the taxes received for the registration of homeowners' associations in order to use these resources for the associations themselves. An additional problem is that the tax level for the registration of these associations is high, regardless of the wealth of the legal entity.

The establishment of collective managements bodies, such as homeowners' associations, for condominiums should remain a policy priority. When amending legislation to facilitate the development of such associations, those associations must be more than just a legal body possessing the legal authority to act on behalf of all the owners of a condominium. Legislation should be amended so that a condominium, as a property complex, is able to contain a variety of forms of property ownership. Both the rights of tenants and owners should be incorporable. Furthermore, legislation should be amended so that owners of large apartments with contrasting financial means are able to limit their liability for capital repair. Such amendments should be introduced along with those that facilitate the development of housing insurance.

The obligations and responsibilities of both owners and tenants can only be developed in a way that encourages their participation in collective property management if the liabilities of such participation are perceived as bearable. For contractual relations to develop between the suppliers of services and consumers, an owners' association must be able to enter into contractual agreements, to benefit from them and be liable under them. If an association becomes a legal entity, all participants must become jointly responsible for its liabilities. If this is not the case, no lending to secure maintenance is possible, as there is no satisfactory collateral for loans to the association. This is why a form of limited liability was suggested in the previous paragraph. This should be complemented by the provision of a well-targeted and transparent housing benefit system. Only then will both owners and tenants actively participate in the management of the property.

D. Legislation on mortgaging

If a policy is pursued of subsidized affordable mortgages, this will be a significant instrument to help households to improve their housing situation. A mortgage system will only work, however, with the improvement of the mechanisms for the State guarantee of the owners' rights, consisting of the right to free privatization and sale, rent, leasing and mortgage of the dwelling.

It should be possible to terminate the right to a mortgaged home even if it is the family's only one. At present, in accordance with article 446 of the Civil Procedure Rules, the foreclosure of a mortgaged property is not possible if it is the mortgagor's only residence. The grounds for termination would necessarily include those cases when a mortgagee was not in a position to fulfil his obligations under a mortgage agreement. At present, the number of restrictions on the termination of the right to mortgaged residential premises makes the practical application of the above provision impossible. As a consequence, the development of long-term mortgage financing for house purchasing is severely restricted.

This is not the only reason, however, why banks do not become involved in mortgage financing. There are other reasons. It is, for example, impossible to foreclose on default if the rights of a household to occupy the premises under a rental agreement are registered. All the persons residing together with the tenant under such agreement, even if they are not members of his family, share his rights and obligations (art. 677 of Civil Code). Protecting the rights of tenants is important. However, the protection should be effected in such a way that it does not make mortgage lending practically impossible.

There are amendments needed to the Laws on Bankruptcy and on Mortgages to further clarify the rights of the creditor and the borrower. In the most recent version of the Law on Bankruptcy, of December 2002, creditors received third priority upon the bankruptcy of the debtor. For creditors whose claims are secured by a charge, however, article 134 provides for separate satisfaction from the pledged asset. In practice, however, consistency in the implementation of the new bankruptcy procedure is yet to be clearly identified. It must be clearly stipulated by law which creditors are to be satisfied from the sale proceeds if the property is sold and in what order this will take place. In addition, there remains considerable contradiction within the legislation itself, such as differences in the order of satisfaction of creditor claims between the Law on Bankruptcy and the Civil Code.

Finally, a purchase of property using a mortgage requires the financial details of the transfer to be declared. In addition, the notary charges 1.5% of the value of the transaction. These unattractive features of purchasing property using a mortgage are compounded by the fact that the real estate rights registry takes over a month to effect registration. As long as the purchaser, however, does not have proof of registration and evidence of title he cannot receive the mortgage finance from the bank.

In such circumstance, especially in the absence of bank financing, the use of public funds for mortgage financing is an interesting alternative. Such a mechanism was evidenced in Ivanovo, where the potential purchaser makes an application to the municipal administration for finance. The purchased flat is placed under the

legal ownership of the municipality. The citizen buys the apartment with the money raised from his old apartment and the money provided by the municipality. If the purchaser does not keep up with the repayments, the municipal authority can initiate a court case to evict him.

E. Financing new construction

The allocation of land for new construction as well as the protection of land plots under objects already privatized are regulated by the Land Code. It prescribes that the owners of buildings have the right to form a land plot, and register the land plot necessary for servicing the building on an ownership or lease basis.

In the Land Code there are two different procedures for the creation of new land plots. Firstly, for the establishment of a land plot either in ownership or under lease: the so-called ‘granting of a land area for construction without the preliminary coordination of the location of the construction.’ In this case the appropriate body establishes the boundaries of the plot based on open planning documents; it decides issues connected with permitted use and issues of the technical condition of the infrastructure. There is then a public announcement of tender conditions. The plot of land is included into the land cadastre and a tender / auction takes place.

Secondly, when a person wants to construct a certain real estate object: the so-called “granting of a land area for construction with the preliminary coordination of the location of the construction”. That person applies to the appropriate public authority. In this case there is no town planning documentation. The appropriate public authority chooses the land plot, although different service organizations are involved in the consideration of locations. When one location is chosen, the land plot is established. All bodies must agree on the selection of this land plot; the decision is to be signed by representatives of both the federal and municipal governments. The approved selection is presented to the municipal authority, which decides on the implementation of the decision. The constructor must then acquire the required permits from the municipal authority. The land is granted on the basis of a leasing agreement.

The practical implementation of these rights to construction contained within the Land Code have been blunted by the fact that the system of urban planning and land use remains characterized by complicated administrative procedures, by the uncertainty of rights to the plot until all the final decisions have been made, and by a lack of specific procedures for allocating rights to land plots intended for development.

This lack of consistent policy is in particular reflected in the procedure of transferring land rights. Land is transferred for a long-term lease or ownership when the investment and construction project is closing rather than when it is starting. This is the main obstacle hampering the development of mortgage financing of construction projects. No legally enforceable rights exist for the co-investors until the project is completed and the land is registered.

New legislation and procedures, elaborating and facilitating the rights contained in the Land Code, need to be issued to serve as the basis for establishing rights and obligations in the construction of real property. Most importantly, these rights and obligations should be implemented in accordance with the legal zoning requirements to be introduced by municipalities.

F. Registration of immovable property

Until 1998 the legal regulation of the definition and registration of real estate rights varied according to the types of real property. Rights to land plots and land shares were guided by presidential decrees and registered by local land committees. Rights to residential property were guided by the Law on the Privatization of the Housing Stock, rights existing 'from the moment of registration with local executive authorities'. Rights to privatized non-residential real estate were governed by the Law on the Privatization of State and Municipal Enterprises and registered by sellers in a relevant property fund or privatization committee.

Many of the problems attributed to these different systems were substantially reduced by the creation of a federal registry on real estate rights by the Law on the State Registration of Real Estate Rights and Transactions. Documentation can be submitted by an individual, a legal entity

and an organ of municipal or federal authority. The registration of condominium property, however, still encounters difficulties. Associations of homeowners have been deprived of the opportunity to register their rights to common elements of their condominiums because of both technical complications and the refusal of local administrations to transfer the ownership of land to the associations.

The goal of the registration of rights to land must be to benefit private, collective and State interests in the protection of their ownership rights. To achieve this goal it is necessary to:

(a) Amend the effective civil legislation to ensure a free transferability of real property and the protection of bona fide purchasers of property rights;

(b) Include specific provisions for registration of land rights for collective or municipal purposes;

(c) Develop land management legislation;

(d) And provide for the State guarantee of registered rights in order to protect the parties of transactions in real estate.

Finally, it remains difficult to obtain the necessary documents from the federal registry and inventory authorities. The relevant legislation must be improved to properly regulate this area of services as at present no standard requirements for cadastre and technical registration documents are in place.

G. Urban planning

The concept of legal zoning was introduced by the Town Planning Code. The Code defines legal zoning and binds municipal authorities with the responsibility to design land use and development rules and introduces them in practice. Indeed, the success of town planning reform relies on increasing the motivation of city administrations to develop their own legally binding land use and development rules. Decisions on zoning plans and related developments should be made by the municipality. The municipality should be responsible for the issuance of building permits on the basis of the approved planning zones. Although the Town Planning Code was introduced in 1998 there remains a need to clarify and simplify zoning procedures and control,

implementation, and changing of zoning plans within urban municipalities.

In reality there is still the retention of previous non-market town planning principles based on command administration. There is no working system for differentiating lands by ownership types, and as has already been outlined, disputes between regional and municipal governments about the right of the latter to dispose of land within city boundaries; and the refusal of certain regional administrations to recognize any other forms of landownership except permanent use and short-term lease. There is opposition of municipal authorities to the introduction of legal zoning as they fear that this will decrease their flexibility in generating revenues from the disposal of land.

New legislation on legal zoning should be introduced. The aim should be to alleviate the ambiguity of the current system in defining the owners' competence to use land plots by way of transition to legally binding town planning regulations based on the legal zoning principles. The drafting of recommendations on legal zoning for regional and municipal authorities, i.e. a framework for local land use and development rules, should be undertaken immediately.

There should be a review of the procedures for land allocation for development purposes to secure long-term rights of developers and investors at the inception of the investment project. The process of construction and the raising of finance would be facilitated both by the formation of an easily accessible database on all real property units for which privatization is

permitted which should disclose information about the permitted type of use and town planning requirements; and the simplification of procedures used for expert examination and approval of town planning and design documents. When construction has been initiated regulations must secure transparency in the issuance of building permits.

This latter point cannot be underemphasized. There is a need for the clarification of the procedure for dealing with construction applications. There is a need for one procedure to grant title to land and a second procedure granting the right to construction. Furthermore, a classification for a range of construction projects needs to be developed to differentiate between those works that do not require any permission and those that require the full building permit procedure. These changes would reduce the problem of the lengthy and unpredictable process for the issuance of initial permits and certificates for construction projects. At present documents must be approved by more than 40 authorities and, due to lack of information on permitted types of land use, many applications for land allocation are rejected.

The ownership, use and disposition rights over property should be clearly defined by civil law. The construction of a reliable cadastral and registration system is an essential precondition to this development. It must reveal all legal relationships attaching and stemming from the land, and establish enforceable rights through the act of legislation.

