

LAND MANAGEMENT AND REGISTRATION SYSTEM

A. LEGAL FRAMEWORK FOR LAND ADMINISTRATION

The basis of property rights in Ukraine can be found in Article 14 of the Constitution of Ukraine, which guarantees the right to own land to its citizens. According to the Constitution, land is Ukraine's main national asset, so it should be under the special protection of the State. The Land Code of Ukraine of 2001 (entered into force on 1 January 2002) addresses fundamental questions related to land and land rights and is the main law that governs land administration in Ukraine. Sections I and II of this code regulate some stakeholders and establish the categories of land, while Section III discusses the rights to land in detail.

The Land Code distinguishes between private (of citizens and legal entities), communal (of local self-governmental bodies) and state ownership (Articles 78 and 80). Ownership rights include the right to use and dispose of owned land plots. Citizens may acquire ownership rights through civil law agreements, the privatization of land that they were already using and inheritance or a free-of-charge transfer of oblast- or rayon-owned land. Foreigners are entitled to acquire own only land that is not for agricultural use.

Since the Land Code was enacted, Ukraine has adopted 58 laws and 59 decrees of the Cabinet of Ministers dealing with land relations and has issued 65 departmental orders registered in the Ministry of Justice (MoJ).

The bill "On Circulation of Agricultural Land" is particularly important as it introduces a national model of agricultural land turnover. This is intended to harmonize private, public and governmental interests and strengthen the State's role as a land consolidator, ensurer of stable and efficient agricultural land use and creator of sustainable social policies in land relations. The bill aims to strengthen the legal mechanisms for further development of agricultural land use and ownership based on principles generally accepted in society.

The adoption of this law and its practical steps in implementation would improve both foreign and domestic agricultural investment climate in Ukraine and encourage public-private partnerships (PPPs). This would be based on a stable rental relationship with government guarantees, the additional inclusion

of leased tracts retained by the owners of public lands and an increased volume of domestic investment from a new emerging class of efficient land owners.

The legality of market land transactions will be ensured through the registration of land plots and rights to them under the laws "On State Land Cadastre" No. 3613-VI of 7 July 2011 and "On State Registration of Rights in Real Estate and their Encumbrances" No. 1952-IV of 1 July 2004.

At the initial stage of formation of a land market, if the supply of land plots exceeds the demand of potential buyers, the Government will act as buffer to absorb excess supply and increase the area of public land for subsequent redistribution between owners and land users on a competitive basis. This consolidation of agricultural land and its inclusion in market circulation will result in increased liquidity of land as an economic asset, attracting additional investment in the agricultural sector.

The current legal framework for land covers a wide array of issues. However, other land issues are governed by laws and regulations such as the Civil Code and the Tax Code of Ukraine.

The law "On State Land Cadastre" was passed by the Verkhovna Rada in 2011 but has been postponed until 2013. This law will create the legal framework for the cadastre and will be the cornerstone for further development of land administration in Ukraine. The law "On Land Market" is currently being drafted and it is possible that its enforcement will also begin in 2013. The moratorium on the sale of agricultural land has not yet been removed. The legal framework is somewhat complex and therefore not easy to understand, which will inevitably lead to contradictions in interpretation.

B. INSTITUTIONAL FRAMEWORK FOR LAND ADMINISTRATION

In 2010, Ukraine adopted the law "On Amendments to the Law of Ukraine on State Registration of Property Rights to Real Estate and Their Limitations". Under this law, the registration of land ownership will be controlled by the newly-created State Registration Service of Ukraine, which is under the leadership of MoJ. The cadastre, on the other hand, will be fully developed and maintained by the State Agency for Land Resources under the Ministry of Agrarian

Table 11. Key legislation in place

Law	Reference	Content
“On land use planning”	22 March 2003 No. 858-IV	Sustainable development of land use
“On the procedure of actual allocation of land parcels to owners of land shares”	5 June 2003 No. 899-IV	Allocation of land parcels to owners of land shares that were formerly in collective ownership
“On land protection”	19 June 2003 No. 962-IV	Land protection, rational land use, environmental protection
“On state control over use and protection of land”	19 June 2003 No. 962-IV	Restoration of natural resources; environmental protection
“On subsidiary farm”	15 May 2003 No. 742-IV	Operating a subsidiary farm
“On farm household”	19 June 2003 No. 973-IV	Establishment of farm households as progressive form of entrepreneurship
“On land lease”	6 October 1998 No. 161 XIV	Use of land plot based on agreement to conduct commercial or other activity
“On land valuation”	11 December 2003 No. 1378 IV	Valuation of land parcels in Ukraine
“On delimitation of land in state and communal ownership”	5 February 2004 No. 1457-IV	Delimitation, ensuring rights of territorial communities
“On the ratification of the loan agreement (Project: ‘Rural land titling and cadastre development’) between Ukraine and the World Bank”	15 June 2004 No. 1776-IV	Establishment of ownership rights to real estate, establishment of an automated system for maintenance of the state land cadastre
“On State registration of rights in real estate and their encumbrances”	1 June 2004 No. 1952-IV	State registration, conditions for the operation of the real estate market
“On amendments to the law of Ukraine on state registration of property rights to real estate and their limitations”	11 February 2010 No. 1878-VI	State registration of property rights under the MoJ and the registration service
“State Land Cadastre”	7 July 2011 No. 3613-VI	Legal, organisational and economic framework for the state land cadastre
“On land market”	Draft	Real estate market of Ukraine

Policy and Food (MoAF). MoAF was responsible for carrying out the registration of land ownership before the amendments.

The Bureau of Technical Inventory (BTI) will no longer be involved in the property registration process. The BTI will no longer register and issue relevant documents by the end of 2012. These functions will be moved to the State Registration Service. The BTI

will continue to maintain technical inventories of buildings, but only for new construction.⁷¹

⁷¹ UKRINFORM, “Lavrynovych Tells about Registration Service and Current Functions of Technical Inventory Bureau”, 23 January 2013. Available from http://www.ukrinform.ua/eng/news/lavrynovych_tells_about_registration_service_and_current_functions_of_technical_inventory_bureau_297024.

The privatization of state land is managed through the “State Property Fund of Ukraine”, directed and coordinated by the CMU and regulated by law “On the State Property Fund of Ukraine” No. 4107-VI of 9 December 2011. The State Property Fund operates both through its central and regional offices. Its mandate is:

- Privatization
- The lease, use and disposal of state property
- The protection of property rights of state-owned enterprises
- The state regulation of property valuation, property rights and professional valuation activities

1. State Registration Service of Ukraine (Ukrderzhreyst) under the Ministry of Justice

The State Registration Service (hereafter, the Service) is preparing to become operational on 1 January 2013. In addition to the registration of persons, legal entities, political parties and the press, it will have full responsibility for the registration of rights to immovable properties and will run 583 registration offices across Ukraine. The notaries of Ukraine will have access to the official register database. The Service is investigating the possibility of notaries acting as registrars themselves if dealing with their own notarized transactions.

Until 2010, the BTI maintained paper documents only; however, registration procedures have since been digitized. The Service is now the body responsible for registration services and is facing a huge challenge in integrating existing paper documents into the register database.

The Service will have to maintain and update the State Information Registration System of Ukraine (of the State Register of Property Rights to Real Estate). The State Register will contain information on who has rights to property and on encumbrances and ownership of the property. These rights will include ownership, possession, use rights and information on mortgages.

The Service will face the challenges of integrating, combining and harmonizing data, which might derive from different sources, in one database.

2. State Agency for Land Resources of Ukraine under the Ministry of Agrarian Policy and Food

The statutes of the State Agency for Land Resources (SALR) are laid down in decree of the President No. 445 of 8 April 2011. SALR is the central executive authority dealing with land resources. Its activities are coordinated by the Cabinet of Ministers through MoAF. This authority is the successor to the State Committee on Land Resources.

The main functions of SALR are:

- Implementation of Ukrainian state policy regulating land ownership
- The maintenance and administration of the SLC
- The establishment and maintenance of an information database on land reform, land administration, land protection and monitoring land
- The maintenance of the SLC
- Valuation activities and land auctions

SALR has about 10,300 staff, including 280 employees at the central level at the time of the research mission for this study.

The structure of SALR includes some state enterprises. The State Enterprise Centre of State Land Cadastre, established in 1997, is the most important for the SLC. The Centre mainly carries out technical functions, such as the administration of the SLC database, including software maintenance and data delivery services.

The tasks of SALR are performed through bodies established in the Autonomous Republic of Crimea, oblasts and the cities of Kyiv and Sevastopol, as well as through district and city offices. In Kyiv, land matters are dealt with by the Kyiv Main Department of Land Resources.

3. Kyiv Main Department of Land Resources

The Kyiv Main Department of Land Resources (KMDLR) has been working on the establishment and maintenance of the cadastre database for Kyiv for the past 18 years. Their well-maintained cadastre index map shows primarily quarters, parcel boundaries, identifiers and house numbers as well as related documents on property rights. Exact building polygons⁷² are not included since KMDLR is not responsible for buildings. Buildings shown on the cadastre map are simply derived from orthophotos.⁷³ The public is allowed access to these data but currently web access to cadastre data is not possible. KMDLR also produces city maps at the 1:15,000 scale. It is still responsible for the registration of immovable property until the end of 2012, after which this function will be handled by the State Registration Service.

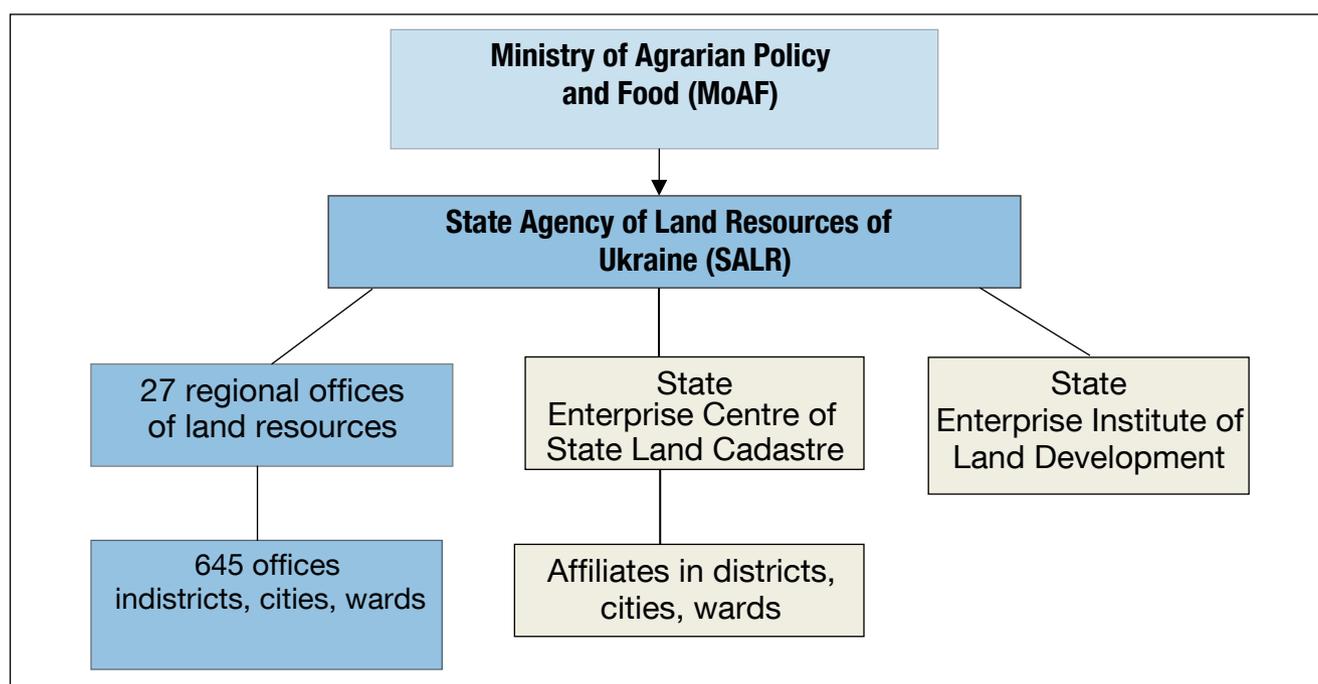
4. Notaries

State or private notaries certify contracts for the buying and selling of land plots, apartments and

⁷² In cadastre, the data on the contours or boundaries of a building are represented by polygons.

⁷³ Orthophotos are aerial photographs geometrically corrected to create an accurate representation of the earth's surface.

Figure 12. Structure of the State Agency of Land Resources



houses in Ukraine, as well as registering mortgages in conjunction with the bank. To be entered in the MoJ notary database, it is compulsory to have Ukrainian citizenship and a higher legal education. According to MoJ, more than 254,500 transaction contracts for apartments and houses were certified by Ukrainian notaries in 2011.

5. State Service for Geodesy, Cartography and Cadastre of Ukraine (Ukrgeodescartographia)

Ukrgeodescartographia, including the Research Institute for Geodesy and Cartography, is mainly responsible for maintaining the national geodetic reference system (UCS-2000), national topographic mapping at standard scale and producing plans for cities and towns. It also plays an important role in setting up the national spatial data infrastructure for Ukraine. At the time of research, the supervising authority of Ukrgeodescartographia was not clearly defined; though it was formerly assigned to the Ministry of Environment, it was planned to assign this service to SALR.

C. LAND REFORM

The first land reforms in Ukraine started in 1990 with the passage of a resolution from Parliament (No. 563-XII) in December 1990 to reform land and land ownership as part of an overall economic shift towards market economy structures. In 1991, with the first Land Code of Ukraine, three forms of land ownership were introduced: state, collective and private. By the end of 1996, with the implementation of this legislation, the State had transferred 3.2% of its agricultural land to private ownership and 36.6% to collective ownership under the SALR. At the same time, the decrees of the

President “On Urgent Activities for Speeding up Land Reform in the Field of Agriculture” No. 666/94 and “On the Procedure for Sharing Land Transferred into the Collective Ownership of Agricultural Enterprises” No. 720/95 permitted the sharing of collective land amongst collective land owners. Land certificates were issued for members of collective agricultural enterprises, allocating plots of a certain size to them. Other citizens living in the area were given household land plots.⁷⁴

The new Land Code of Ukraine of 2001 distinguishes land owned by the State, municipality and private owners. It also introduced a moratorium on the sale of remaining agricultural land.

A third phase, starting with the decree “On Urgent Measures for the Acceleration of Reforms in the Agricultural Sector of the Economy” No. 1529/99 created new agricultural enterprises based on private land ownership. As a result, 27.5 million hectares of land were transferred into private ownership and approximately 6.8 million citizens received certificates for the right to a land share, more than 99% of whom redeemed their certificates for a land title.

Land shares were based on land map borders, resulting in differences between registered and actual land borders. The average land share size is about 4 hectares, ranging from about 1.1 hectares in Ivano-

⁷⁴ Katja Dells, Maxym Fedorchenko, Oksana Frankewycz and Pieter Steffens, State Land Management of Agricultural Land in Ukraine (Berlin: GTZ, 2006). Available from http://www.unece.org/fileadmin/DAM/hlm/prgm/cph/experts/ukraine/land_info/land.management.agri.2006.pdf (accessed 6 February 2014).

Frankivsk to 8.9 hectares in Luhansk. Even though the creation of farms was not directly stimulated by the State, the establishment of 34,715 new agricultural enterprises followed (Table 12).

A substantial number of land shares (more than 4.6 million shares, or 17.4 million hectares at the beginning of 2012) were leased to agricultural enterprises, for periods varying from one to more than ten years.

Land is now divided as shown in Figure 14.

The situation in rural areas is a difficult one: a small number of approximately 52 agro-holdings are cultivating areas of 10,000 up to 60,000 hectares, whereas only three million hectares are cultivated by about 43,000 farmers, i.e., an average size of around 70 hectares. The average size of farms is up to 2,000 hectares, rather large compared to the average size in the EU. Unemployment in rural areas is about 50%, and 10% of the rural population are involved in agricultural activities. Some people live solely on the lease revenue that they receive for their land shares.

While land markets for non-agricultural land have evolved somewhat over the last couple of years, the introduction of healthy land markets for arable land is impeded by the moratorium on its sale. The question remains as to how much land should be owned or leased by one person and how the quality of land and the productive use of land for food production can be safeguarded.

The concept of a state land bank to support small and medium enterprises is currently being considered; the bank would buy land from farmers, exchange land and improve the farming and infrastructure in rural areas. Chapter 9 of the draft Law “On Land Market” introduces the state land bank concept to promote

Table 12. Agro-formations in Ukraine as of January 2011

Companies with limited liability	7 934
Joint-stock companies	723
Private (private-lease) enterprises	5 331
Agricultural productive cooperatives	1 022
Farm households	11 946
Other economic agents	7 759
Private households	1 149 300

Source: SALR..

agricultural development and the use of land and real estate to secure loans. A draft law on agriculture is also planned to provide for agricultural cooperation. According to MoAF,⁷⁵ a number of additional

⁷⁵ Petrenko, S. Personal Interview. 22 March 2012.

regulations are being discussed, such as development of regional clusters, subsidies for private agricultural enterprises and the establishment of “production passports” for different climate zones in Ukraine.

In order to assist people in rural areas, the project “Legal Empowerment of the poor: Fostering Full Enjoyment of Land and Property Rights” is being carried out under the United Nations Development Programme. This project is very important, as the above-mentioned laws on cadastre and the land market are expected to be implemented in Ukraine from the beginning of 2013. Transparency and the awareness of property rights and how to legally enforce them are critical to the success of a rural land market.

D. SPATIAL REFERENCE SYSTEM AND TOPOGRAPHIC MAPPING

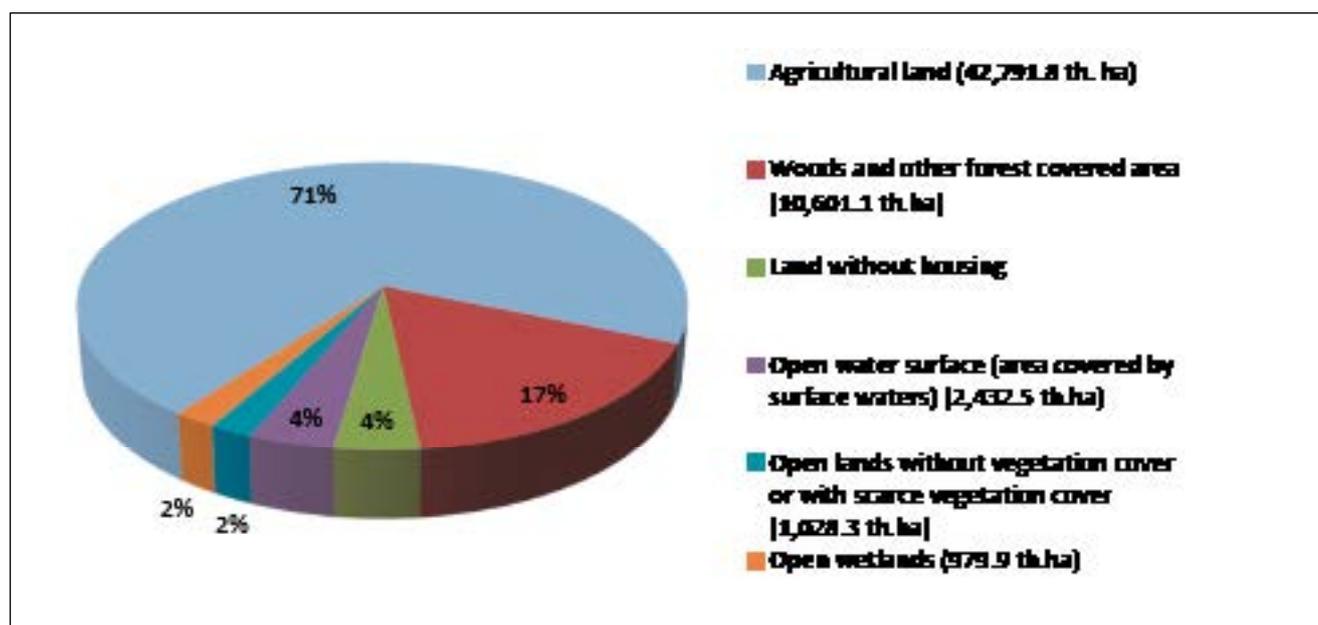
Geodetic coordinates in Ukraine were initially maintained in the Pulkovo horizontal system 1942 (S-42) and the conventional coordinate system SC-63 of 1996. A decree of the Prime Minister in 2004 authorized the Research Institute for Geodesy and Cartography to redefine the system and in 2007 introduced the new official Ukrainian geodetic reference system, UCS-2000. Accurate transformation parameters were decided between the ITRS/ITRF 2005 and ETRS89 coordinate systems and are now available. As the UCS-2000 is rather close to the S-42 system, it is possible to maintain the old topographic maps in the scales 1:10,000 or smaller.⁷⁶ Map scales for Ukraine are 1:10,000, 1:25,000, 1:50,000 and 1:100,000, with digital maps only available as raster data. The quality of topographical data is considered to be poor.

The State Geodetic Network of Ukraine (SGN) consisted of approximately 25,000 points determined through a combined adjustment of the Global Navigation Satellite System (GNSS) and terrestrial observations. Ukraine now has a network of 16 permanent GNSS stations with another 16 being observed on a periodic basis. In order to further improve the SGN, 650 new points were added to the network.

The official vertical reference system of Ukraine is the Baltic 1977 height system. In addition, a connection with the United European Levelling Network was established and preparatory works for the readjustment of the Ukrainian State Vertical Network were carried out. The data obtained from the first- and second-order levelling to neighbored countries were transferred to the Federal Office for Geodesy and Cartography of

⁷⁶ Oleg Kucher, Yuriy Stopkhay, Mike Cheremshynskyi and Ivan Zaiats, *National Report of Ukraine. The Fundamental GPS Network Establishment in Ukraine*. Available from <http://www.euref.eu/symposia/book2002/310-312.pdf> (accessed 6 February 2014).

Figure 13. Land use in Ukraine at 1 January 2011



Source: SALR, “The System of Land Relations in Ukraine: Current Situation and Perspectives of Development”, 2012

Germany.⁷⁷ The GPS-levelling points form is the base of the new quasi-geoid model of Ukraine, which will be finalized in 2013.

Some municipal and local data are still maintained in local coordinate systems, so to his must be transformed to b UCS-2000. In doing this, the parameters needed to transform the data need to be determined; as of 2011, parameters for 12 local systems around different cities were available. For 18 municipal coordinate systems, new observations are necessary to obtain the necessary transformation parameters. Within the pilot project in Kharkiv, transformation parameters are being prepared to support the works of SALR. The city of Kyiv still maintains the old Kyiv coordinate system. However, there is currently a reconstruction of its geodetic network using the UCS-2000.

The State Service for Geodesy, Cartography and Cadastre is striving to complete the tasks involving UCS-2000. One important task is the demarcation of administrative boundaries (including oblast, rayon and village boundaries). The cadastral index maps are still based on the old coordinate system. Once all cadastre maps are available in UCS-2000, SALR will be able to work on gaps and overlaps of cadastral data, particularly in settlement areas. The State Service has been in international cooperation with the Reference Frame Sub-Commission for Europe (EUREF) and EuroGeographics and is seeking experienced international support from countries like Switzerland and the United Kingdom.

A concept for setting up a national geospatial data infrastructure (NSDI) for Ukraine has already been

⁷⁷ Ibid.

planned and was drafted in 2007. Metadata on existing datasets are available.

E. CADASTRE

A sound single cadastre database is the basis for appropriate management of land resources and taxation. The current status of the cadastre does not fully meet the expectations of the administration, businesses, citizens and customers regarding issues such as completeness, currency, data accessibility and reliability.

Legal development

The quality of the cadastre has been strongly influenced by legislative developments over the last three decades. In the 1990s, registrations of property rights and in the cadastre were maintained in separate systems with different agencies carrying out this work. However, the situation changed in the 2000s with a single system for registration of rights and cadastre introduced by decree of the President “On Measures of Creation of a Single System of State Registration of Land Parcels, Immovable Properties and Rights to Them in the State Land Cadastre” No. 134 of 17 February 2003. This was the basis for funding the World Bank project “Rural Land Titling and Cadastral Development”.⁷⁸ Unfortunately, the law “On State Registration of Ownership Rights to Immovable Property and their Encumbrances” of 2004 was never implemented. The original World

⁷⁸ Cadastre Registration in Ukraine, *National Security and Defense* No. 6 (2011): p. 8. Available from <http://www.razumkov.org.ua/>.

Bank Project was amended in 2009 solely because of the slow progress of the project component “Cadastral System Development”.

In 2010, the legal situation changed again with the adoption of the law that amends state registration of property rights to real estate. Responsibilities for registration of ownership rights were shifted to MoJ; the maintenance of the SLC and the registration of land parcels remained under the responsibility of SALR. As a result, the registration of past data involved a number of different authorities at state, oblast and municipal level, including the BTI and State Property Fund. This eventually caused a heterogeneous cadastre and the programme for the creation of an automated maintenance system for the SLC was not fully implemented due to lack of funding.

The law on the SLC in 2011 is considered as a milestone in land administration development and clearly shows that Ukraine has acknowledged the overall importance of the cadastre, as well as the automated SLC system. The cadastre is now defined as a geo-information system run by the State and providing information on land parcels. Both the qualitative and quantitative characteristics of these parcels must be specified, including parcel boundaries, land use, possible restrictions, valuation, administrative boundaries, categories of land, parcel identifiers and distribution of land between land owners and land users. A number of new provisions dealing with procedures and time limits for state registration of land parcels aim to streamline registration and reduce corruption. Registration has to be completed within two weeks after submission of all necessary documents.

The law on the SLC is intended to establish and maintain a multi-purpose cadastre for provision of accurate land information, based on completeness and openness of information; therefore documentation of all information on land parcels is required. The law on the SLC defines the necessary uniform spatial reference with the national coordinate system (the state geodetic network). Documents of the cadastre include cadastre index maps, cadastre maps, records of land quantity and quality and land books (terriers).

The law on the SLC establishes that the SLC shall be operated by state cadastre registrars, appointed by orders of SALR territorial units. As of 25 June 2013, 1,821 cadastre registrars have been appointed.

Under the law on the SLC a regular information exchange between the SLC and the State Register of Property Rights takes place in electronic form. General purpose telecommunication channels are used to exchange cryptographically protected, electronically signed information. Information files on registered land plots are created with help of SLC software and information files on registered property rights to land

plots are created by the software of the State Register of Property Rights to Real Estate. Information files on registered land plots with data on land plots registered on a particular date must be submitted to Ukrderzhreystro no later than the following day. Users maintain electronic logs of sent and received data. To confirm data integrity in electronic format, users use electronic signatures compatible with the Ukrderzhreystro software. Public keys are confirmed by enhanced certification of the public key.

Under Article 36 of the law on the SLC, SLC data is publicized on the official website of the Central Government Authority. Information on land plots reflected in the public cadastre map of Ukraine is updated weekly.

Current status of the single cadastre information system

Since 2008, SALR has been digitizing available graphic material on land arrangements and adding information gathered from exchange files (datasets derived from land arrangements). Through the World Bank, cadastral index maps were produced for 77.2% of the area of Ukraine (about 463,500 km²) and maps for the Zaporizhia oblast (about 27,000 km²) are currently being finalized. The oblasts of Dnipropetrovsk, Donetsk, Luhansk and Kharkiv (about 116,500 km²) are expected to be mapped by August 2012.

The content of the cadastral index maps was approved in 2010 by CMU (decree of CMU “On Identification of Real Property Objects and State Registration of the Rights” No. 1117). The index maps should contain cadastral zones, cadastral districts, their numbers and location of boundaries. The index maps are part of the cadastral map that contains administrative units, cadastral zones, blocks, land parcels and their identifiers and boundaries, boundaries of areas with special conditions for land use and polygons of real estate on the parcels. Both cadastral index maps and the cadastral map are maintained in the conventional coordinate system SC-63 as well as the local coordinate systems being used.

The division of land into state and municipal ownership is required by the Land Code but in practice has never been fully carried out.⁷⁹ Moreover, the exact boundaries of settlements are not always clearly delimited and an electronic cadastre is not available in many cities. The problem of overlapping boundaries or gaps in the cadastre is common but

⁷⁹ Katja Dells, Maxym Fedorchenko, Oksana Frankewycz and Pieter Steffens, *State Land Management of Agricultural Land in Ukraine* (Berlin: GTZ, 2006). Available from http://www.unece.org/fileadmin/DAM/hlm/prgm/cph/experts/ukraine/land_info/land.management.agri.2006.pdf (accessed 6 February 2014).

their extent in the cadastre can only be determined after the transformation of the SC-63 cadastre and all existing local coordinate systems to UCS-2000. There is an ongoing pilot project in Kharkiv aimed at addressing this problem which is hoped will produce feasible solutions.

Additional problems are caused by administrative boundaries of oblasts, districts, cities, townships and villages in disputed territories. The delimitation of these administrative boundaries has direct influence on the boundaries of cadastral districts, so decisions on the boundaries of administrative-territorial units remain a matter of urgency. To facilitate this, the law “On Amendment of the Land Code of Ukraine” and other legislative acts concerning land development related to setting up or changing boundaries have been adopted by the Verkhovna Rada on the first reading. This legislation could address these boundary problems in the near future; however, according to the “Action Plan on Land Reform and Establishment of a Transparent Agricultural Land Market” (decree of CMU No.1072-r of 26 October 2011), the delimitation of state and municipal land will continue until 2015 and the determination of boundaries for 16,738 populated settlements will continue until 2018 (executive order of CMU “On Approval of the Action plan on Land Reform and Establishment of a Transparent Agricultural Land Market” No. 1072-r of 26 October 2011).

Strategic documents relevant to SALR’s work are the “National Programme of Economic Reforms 2010-2014” (including the annual implementation plans) and the “Action Plan on Land Reform and Establishment of a Transparent Agricultural Land Market.” SALR has set as its priorities for 2012 as:⁸⁰

- Enabling the efficient operation of the SLC
- Delimitation of state and communal land
- Increasing transparency of procedures for regulating land relations
- Simplification of the procedure for determining boundaries of populated settlements

SALR have identified the absence of a digital cadastre system for the entire territory as a major problem for Ukraine. USD 12 million are allocated in the budget for 2012 to create a single cadastre system in UCS-2000. In the long-term, SALR is striving for the introduction of agricultural land market, land consolidation, maintenance of the SLC, and the establishment of a state land fund for the management of state-owned land. The single information system of the SLC needs to be established as soon as possible to provide a sound cadastre system.

⁸⁰ SALR, “The System of Land Relations in Ukraine: Current Situation and Perspectives of Development”, 2012.

The implementation of the electronic land cadastre is extremely slow – in this area Ukraine is at least 10 years behind Western Europe.

As a result of the collaboration of Ukraine and the World Bank within the frame of the “Land Titling and Cadastre Development Project”, an electronically-maintained National Cadastre System of Ukraine was launched on 1 January 2013 and is operating in 549 territorial offices with about 12,500 employees (including approximately 2,000 cadastral registrars). Cadastral index maps and orthophotomaps have been created and administrative boundaries have been mapped. Since 2013, Ukraine has also started implementing the unified coordinate system for the country. Public access to information on land is now possible through the “Public Cadastre Web Map Portal”. With these developments, average registration time for the cadastre could be substantially reduced.⁸¹

F. REAL ESTATE MARKET

The real estate market in Ukraine is generally considered to be underdeveloped in terms of transaction volume and value.⁸² To a certain extent, this is related to the complicated and bureaucratic registration and privatization processes. The situation in urban and rural areas differs; for example, the ownership of condominiums and their land are still sometimes separated, although the flat owners have the right to buy the land as well. One reason often quoted for this is that the boundaries of the land with the multi-family housing on it are not clearly determined. Difficulties in using real estate as collateral for investments are one of the consequences.

In 2011, according to MoJ, more than 254,500 transactions involving apartments and houses in Ukraine were certified by notaries, compared to 224,900 transactions in 2010. This is considered to be the first stabilization of the real estate market since 2008.

On the other hand, the rural land market of Ukraine is seriously blocked by the moratorium on agricultural land sales, which does not allow the sale of arable land, although land can still be given away by local authorities. In the absence of a functioning land market, the true value of agricultural land remains unclear and, instead, there is only a “normative valuation” of the land. Normative valuation is based on the rental income from grain crop, with corrections applied to account for soil fertility and the location of

⁸¹ Sergii Tymchenko, “National Cadastre System of Ukraine”, Conference on Land and Poverty (Washington, DC: World Bank, April 2013).

⁸² Timur Bondaryev and Svitlana Teush, “Ukraine’s Real Estate Market: Trends and Significant Developments”, *Real Estate News*, April 2012.

the land.⁸³ This approach has a number of significant shortcomings that limit its reliability;⁸⁴ determined values are often higher than those from other methods of estimation. Normative values are used, for example, for determining land tax and lease rates and technical documentation of valuation has to be approved either by village, town or city councils (within settlements) or by district councils (outside settlements). The economic impacts of the lack of a functioning land market include less growth, reduced structural change and less finance and investment in agriculture.

SALR estimates the starting price for agricultural land at about EUR 300/hectare with prices quickly rising after the removal of the moratorium. This may not necessarily be the case, due to limited numbers of buyers and lessees (mostly new agricultural enterprises and successors to the former collective farms) and land owners with rather limited knowledge of the legal background or the current market conditions. As a result, farmland prices might remain lower than the normative values.⁸⁵

In order to enable civil and legal agreements concerning land rights, property valuation can be carried out by licensed experts, but under the moratorium on sales of agricultural land, requests for expert reports on the market value of agricultural land are practically non-existent (according to SALR). Along with opening the agricultural land market, SALR is planning to establish a database collecting transactions and valuation for future analyses of the rural land market. This should be done for non-agricultural land by the local governments.

A considerable shadow land market set up to evade the obstacles established by the arable land moratorium has evolved. A functioning agricultural land market should therefore be introduced as soon as the necessary pre-conditions are established. It should, however, be accompanied by the appropriate legislation (the laws “On Land Market”, “On State Land Cadastre” and “On Preserving Land Fertility”) and the clear, unambiguous registration of land and real estate ownership and other rights in in the SLC and the State

⁸³ Oleh Nivevskiy and Serhiy Kandul, “The Value of Farmland - Expected Farmland

Prices in Ukraine after Lifting the Moratorium on Farmland Sales,” *Policy Paper Series [AgPP No.32]*, Institute for Economic Research and Policy Consulting, March 2011. Available from http://www.ier.com.ua/files/publications/Policy_papers/Agriculture_dialogue/2011/PP_32_Farmland_prices_after_moratorium_ENG.pdf.

⁸⁴ Ibid.

⁸⁵ Berlin Economics, *Turning Ukrainian Agriculture into an Engine of Growth: A Strategy for the Development of the Grains and Oil Seeds Sector* 23 January 2012 (Berlin: BE Berlin Economics GmbH, 2012) Rep. 2nd revised ed. Available from http://www.berlin-economics.com/download/policypapers/Strategy%20Agriculture%20Ukraine_ACC-EBA_Berlin%20Economics_23%20Jan%202012.pdf.

Information Registration System (land register). This will also be a prerequisite for establishing a mortgage market, using land as collateral and fostering investment in rural areas.

The “Action Plan on Land Reform and Establishment of a Transparent Agricultural Land Market” (decree of CMU No. 1072-r of 26 October 2011) foresees the following developments to improve the situation in the rural land market:

- Simplification of the boundary setting procedure for both urban and rural settlements
- Approval of the national target programme for the development of regulations on land ownership until 2020
- Possible cancellation of free-of-charge privatization of land plots
- Regulations for keeping the SLC
- Expert’s valuation of land parcels
- Use and protection of lands
- Normative valuation for both agricultural land and rural settlements

The Law “On Land Market”

The laws “On Land Market” and “On State Land Cadastre” are important pillars to improve the land market of Ukraine and their application will have a large influence on future market development. A draft of the law “On Land Market” of 9 December 2011, has been produced, but there are still a number of issues being discussed in the Parliament.

The draft limits the area for agricultural production in private ownership of a single person to a maximum of 2100 hectares and one person cannot lease more than 6,000 hectares. Sales prices for agricultural land in state or communal ownership cannot be lower than that determined in an expert valuation. Pre-emptive rights shall be granted to owners of adjacent land parcels, as well as to co-owners of land parcels in joint ownership (draft law “On Land Market”, Article 18). According to Chapter IV of the draft law, land consolidation should be introduced on a voluntary basis, including the unification of separate land parcels, the exchange of land parcels and land arrangement projects (draft law “On Land Market”, Article 23). As the draft law is still under preparation, further details are not outlined here.

Land Taxation

The new Tax Code of Ukraine has been in force since 1 January 2011 and places particular emphasis on property and real estate taxation, increasing the tax rate for land. According to item 286.1 of Article 286 of the Tax Code, the basis for the land tax charge is data

from the SLC. Tax rates and lease payments for state and municipal land are based on a normative valuation of land carried out by SALR. Tax payers apply to SALR for an excerpt in the form of a certificate, which is then submitted to the tax authorities together with

the first tax declaration for their land parcel. The new land tax should be introduced together with the new registration and cadastre systems. The responsibility for the collection of this land or real estate tax lies with local governments.⁸⁶

Picture 8. An apartment building under construction



⁸⁶ Timur Bondaryev and Svitlana Teush, “Ukraine’s Real Estate Market: Trends and Significant Developments,” *Real Estate News*, April 2012.