

Distr.: General
23 September 2019

Original: English

Economic Commission for Europe

Committee on Urban Development, Housing and Land Management

Eightieth session

Geneva, 2-4 October 2019

Item 2 (d) of the provisional agenda

Review of the implementation of the programme of work 2018-2019

Land administration and management

Study on Fraud in Land Administration Systems

Summary

This information note presents the preliminary results of a study conducted by the Bureau of the Working Party on Land Administration after its eleventh session in February 2019. This is a follow-up study to the 2011 study¹ on “Fraud in Land Administration Systems”.

The 2019 study is based on a questionnaire to analyse the current state of play and best practices in addressing fraud in land administration systems in the ECE region. The study is expected to be finalized in 2019.

The Committee is invited to take note of this information and provide when available additional best practices examples to supplement the study.

¹ <https://www.unece.org/index.php?id=24802>

I. Introduction and scope of this study

1. At the fifth session of the Working Party on Land Administration (*Geneva, 19–20 November 2007*), the delegation of the United Kingdom introduced the issue of fraudulent use of electronic land registration data and related incidents of identity theft (ECE/HBP/WP.7/10, para. 17). That study was based on the survey completed by ECE countries concerning online access to land registration information and was carried out by the United Kingdom with subsequent analysis by the Bureau of the Working Party. The study's objectives were to identify good practices in the detection and prevention of fraud in land registration systems, necessitated by the public electronic availability of land and owner information in ECE countries. Its findings covered three main areas – accessibility of systems, experience of fraud and counter-measures. The study report argued that to detect, prevent and deter fraud, internal controls and checks should be strengthened and sanctions should be imposed. Furthermore, it argued for the necessity of changing public and staff attitudes in the creation of an anti-fraud culture. Almost all respondents agreed that sharing intelligence with other jurisdictions would be helpful, at least to identify common threats and compare best practices for detecting and preventing fraud.

2. It is widely accepted that, for the proper functioning of land and property related markets, people must be able to trust land administration systems – and guarding against fraud is a measure that can enhance this trust. The Working Party therefore decided that this update would be part of its programme of work. This draft paper presents the preliminary results of a follow-up study, based on the survey completed by 39 ECE countries.²

3. Registration fraud, as dealt with in this study, is defined as where a fraudster attempts to or succeeds in inserting changes in the land register through fraudulent activity, in the aim of making some financial gain through criminally acquired property or interest in property. The study deals with registration fraud, including mortgage fraud and other fraud involving the misuse of land registration or cadastral data. In view of an increasing tendency for land registration information to be made available online, the study focuses particularly on fraud arising from the misuse of information obtained from online land registers and cadastres.

4. This study does not deal with internal corruption, for example, by land registry employees against employers, such as extortion, accepting bribes for expediting cases or falsifying records, thefts of cash, assets or intellectual property (IP), or false accounting.

II. Methodology

5. To facilitate an analysis of the current state of play in the ECE region, and to identify good practice, a questionnaire was sent out to government authorities in the 56 ECE member States, and 39 replies were obtained from the ECE region.

6. The survey asked about four main areas – accessibility of systems and information, the use of counter fraud measures, analysis of fraud trends and the impact of a notarial system on levels of fraud. Where appropriate, respondents were asked to provide factual information about their systems and

² The Working Party Bureau gratefully acknowledges the input of all survey participants, the valuable work that has been done by others before as referred to in this report, as well as all the assistance and advice from Working Party members and the ECE Secretariat.

experiences. Where opinions were sought, respondents were asked to provide explanations and examples. Information was sought on the understanding that, due to its potentially sensitive nature, the secretariat guaranteed that submissions would be anonymous, i.e. no individual country or jurisdiction would be identified. The only exceptions relate to information that is already in the public domain.

7. There were 39 respondents, of the responses 33 were complete and 6 incomplete ones. Separate responses were received from each of the three authorities of the United Kingdom.

8. Analysis of these responses, together with the guidance, policy statements and other material published by participating authorities, and subsequent consideration and review by the Working Party Bureau, has led to the good practice recommendations described in the final section of this report.

III. Accessibility of land title systems and information

9. The use of electronic technology to store and process land registration data is normal practice throughout the ECE region. All respondents hold land title registration information in a computerized/electronic format. Most land registration and cadastral authorities now utilise online systems to provide easy access to land information for the general public. Since the 2007 survey, there has been a slight shift towards countries limiting what information is open to public inspection. However, there has not been an increase in the limits on what information can be made available electronically.

10. Eighty-nine per cent of respondents make property-related information available to the public online: a rise from sixty per cent in 2007. There has also been a substantial increase in the number of respondents whose organizations either require online applicants to register their details before being supplied with information or who have another method of identifying online applicants. Where information is available online to anonymous applicants, just over half of respondents limit the information that is available and there have been some marked increases in the limiting of information in all categories, with the exception of proprietors' details.

11. Fifty per cent of respondents think that registration fraud in their jurisdiction is decreasing, which is a significant change from 2007 when only nine per cent of respondents believed this. Only four per cent believe that registration fraud is increasing. This belief appears to be grounded in evidence – sixty-six per cent of respondents now identify attempted fraudulent registrations, an increase from twenty-eight per cent in 2007 and fifty-two per cent are monitoring trends in fraudulent registration. There appears to be little solid statistical evidence to show that fraud in land registration systems has increased due to the introduction of online services. However, fraud and forgery exist wherever there is commercial activity and at least some law enforcement agencies consider ease of access to be a factor in a potential increase in registration fraud. Significantly, most respondents said that they were not identifying any significant trends in fraudulent activities following the introduction of electronic services, nor were they identifying any clear links between fraudulent trends and the use of electronic services, with only three per cent saying that there had been increased fraudulent activity linked to electronic services.

IV. The use of counter fraud measures

12. Seventy-five per cent of respondents have now developed methods of detecting/preventing potentially fraudulent activities, an increase of twenty-eight per cent since 2007. Ninety-six per cent

believe those methods have been very or fairly successful and sixty per cent are regularly reviewing, evaluating and improving those measures.

13. In 2007, almost all respondents agreed that sharing intelligence with other jurisdictions would be helpful, at least to identify common threats and compare best practices for detecting and preventing fraud. It is therefore surprising that only forty-eight per cent of respondents said that they have a network of key organizations in their own jurisdictions that coordinates efforts to combat fraud. No single organisation can prevent fraud and working with a range of partners can help to identify threats, develop strategies and implement counter-measures. An even higher number of respondents thought that sharing intelligence across the ECE region would be helpful in combating fraud. It is the recommendation of the Working Party Bureau that work be undertaken to investigate how this could work in practice.

V. Analysis of fraud trends

14. It is difficult to identify trends across the ECE region from the results of this survey as each jurisdiction operates a different system. As the survey was anonymous, it was not possible to draw conclusions about the reasons for the lower levels of fraud that some respondents reported without an understanding of the context. Information which would help with this could include: the number of transactions processed, ID and submission processes, whether national ID cards exist, whether the parties to the transaction are obliged to meet, property values and what data is held on the register. Further study needs to be done to understand what the impact of these different processes has on the levels and type of fraud. We can then understand how applicable these issues are between different jurisdictions and draw conclusions about whether the ease of making a transaction affects the levels of fraud.

VI. The impact of a notarial system on levels of fraud

15. The results of the survey did indicate that using a notarial system either reduces or eliminates fraud. However, some jurisdictions reported that this impact is in fact due to the move away from doing transactions in person towards electronic services. Further study of the notarial system will be carried out to identify how it prevents fraud and whether elements of it could be applied in jurisdictions that do not have such a system to reduce fraud.

VII. Good practice

16. The move towards electronic services has resulted in processes being changed or new processes being introduced. Some of these changes may be to specifically prevent fraud but others are intended to make transacting with property easier. Where that is the case, care has been taken not to create new ways in which fraud can be committed.

17. In Finland electronic signatures have been linked to the bank verification system. From 2013, the National Land Survey of Finland has enabled electronic transactions of properties as well as electronic mortgaging. There are several possibilities for electronic identification's use to secure the identities of conveyance parties. The electronic service for verification is organized in collaboration with public administration services. Methods for identification include: online banking use identifiers provided by banks, electronic identity cards issued by Finnish police, mobile identification issued by mobile operators and linked to mobile SIM card, or electronic identification, authentication and trust services (eIDAS). Electronic signature using these identification methods has the same legally binding status as

conventional signature. The parties of conveyance may also authorize a third party to do the transaction (for example real estate broker or bank) in the same online system.

18. ECE member States and relevant stakeholders are invited to send further examples of this kind of innovation for inclusion in this study.

19. The good practice identified in the responses to the survey will be analysed alongside policy advice, statements and other material published by the participating jurisdictions. With jurisdictions providing increasing online access to land information and registration services, there is a corresponding need to:

- understand and manage the risk of external fraud
- deter and prevent external fraud
- detect and investigate external fraud and impose sanctions.

i) Understanding and managing the risks of fraud

20. Some authorities have taken a strategic approach in order to understand and manage the risks of fraud in general, including fraud in online land registers. The benefits of this approach are that it:

- fits in with good corporate governance, enabling fraud risk to be managed in the same way as managing any other business risk: systematically at both the organisational and operational level
- can help with developing a range of measures, which apply proportionate and well targeted pressure at all levels of the problem
- enables a cost-effective approach to tackling fraud by focussing on areas of greatest impact
- can be an effective way of communicating to staff what the authority seeks to achieve and what is expected from them.

21. This strategic approach includes data controls and this study intends to analyse impacts of open data, as well as how jurisdictions have managed and mitigated against this.

ii) Detecting and investigating online fraud

22. Registered title fraud is often not detected until sometime after the event, when authorities are notified by an innocent party who has been defrauded. However, frauds can be detected before they have been completed and/or registered in a number of ways. Referrals may come from staff members who suspect a fraud. Members of the public may contact authorities about their suspicions. Authorities may also use a range of techniques and technologies to identify suspicious activity for further investigation. They may also carry out special pro-active exercises to detect fraud in high risk areas. Fraud investigators may develop their own intelligence by following leads on existing cases where there may be links to other frauds. Each jurisdiction develops detection and prevention methods which suit their own processes.

23. For security reasons, it is not possible to say more about the methods by which fraud is detected and prevented.

VIII. Recommendations

24. In 2007 almost all respondents agreed that sharing intelligence with other jurisdictions would be helpful, at least to identify common threats and compare best practices for detecting and preventing fraud. An even higher number of respondents to this survey thought that sharing intelligence across the ECE region would be helpful in combating fraud. It is the recommendation of the Working Party Bureau that a forum be established for ECE countries to share lessons learnt and best practices and that work be undertaken to investigate how this could function in practice. The intention would be to establish a secure forum where counter fraud teams could share information on common threats and how they use processes in their jurisdictions to make checks and block fraud.