

Session 7 THE WESTERN EXPERIENCE

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The UNECE (MOLA) Initiatives for Europe and their Potential Impact on International Land Administration Trends

MOLA stands for the Meeting on Officials on Land Administration for 58 European States, established 1996

Belongs to the UN Economic Commission of Europe. "A club within the UN club."

Provides country profiles and assessments.

Massive privatisation and restitution of land. Modernising existing infrastructures to improve administration. Public agencies and private sector balance is in question.

Merger of land registration and the cadastre is an issue. Very few countries in western Europe have managed to merge these.

1 mil transactions per year for population of 10 million. People refinance mortgage every 5 years. 50,000 transactions to cadastre to change boundaries.

Money must be channeled from land register to cadastre if they are not merged.

Transition countries: Land markets are not working. Some selling of flats. First mortgage bank opened in Hungary last year.

You could own building not land under communism, now this is a problem. Flats were privatized without creating condominiums.

Former Soviet: far less advanced than countries to the west. Now first time allocation of private ownership (without restitution). Many don't have basic legislation and multi-family housing. Who owns roofs etc is a major problem. The data standards are too precise: going to centimetres of accuracy, therefore do not concentrate on the main needs to secure tenure. Forced to do data on rural land, not attend the major problems of urban land and nor sorting out ownership of common parts of urban buildings.

MOLA tries to coordinate.

www.sigov.si/mola/

Survey needs to concentrate on land administration surveyor not geodetic administration. They need to reengineer the land administration system.

Tommy Osterberg and Paul van der Molen

Land Tenure and Land Administration for Social and Economic Development in Europe

Holland does deed registration. Sweden

Roman law – absolute ownership and dominion - you controlled what you used land for.

Germanic law User rights Village and family ownership. People can walk on land and picnic on land.

Feudalism personal serfdom

Land registration

Originally ownership registration.

Court proceedings by chronology.

Deed registration, person based southern and western Europe.

Title registration parcel based northern and central.

Land parcels for fiscal cadastre then developed into a real property register.

Sweden is a coordinated cadastre.

Population register is included showing where people are actually living. Can combine information without merging authorities.

Banks found mortgage bonds cumbersome to administer, therefore put them in data base and banks themselves might do registration. Put registration as close to source of registration as possible.

Registration protects, not creates, legal rights. Rights are created by a legal action in Europe. They use subdivision control, rural controls and comprehensive land conservation. Strengthen tenants rights as a result of the “revolution” and social unrest. Municipal planners have a monopoly.

Environmental controls apply to all land owners. Special interest areas exist.

Tax regimes include land tax, transfer tax, capital gain tax and development value tax.

Imperfections

Incomplete information. Real rights and personal rights differences. Not all legal transactions are registered. Public law transactions are not all registered. In some countries cadastre has only one purpose. France – fiscal. Financing an organization is difficult.

Future: Tenure

Horizontal division of land, time sharing, joint ownership, combinations of leaseholds and ownership. Public restriction on land use will be increased for environmental and cultural values. Land acquisition controls, special purpose land.

What kind of information can go on the internet to remain an acceptable system? Integration of systems is growing. Private sector will be engaged more and more. European systems are cheaper and faster than in USA.

Andras Ossko (Hungary) and Andrezej Hopfer (Poland)

Eastern Europe’s Lessons from the Past and Aspirations for the Future: Running to Catch-Up or Blazing a New Path?

Central Eastern European Countries. After WWII these were forced to introduce a one party system and command economy on Soviet model. Left weak valuation skills and low real estate transactions. With introduction of land markets, a land administration system was needed.

Land register: govt acts as guarantor of information in the register.

The session showed that most countries did not have a land administration system prepared for markets. Foreign projects and market trends led to common institutional problems. Expensive long term tasks were clearly involved in running the system. For instance, English was needed for information technology support.

The incentive for a system lay in facilitation of capital and credit. A land market requires – rules of the game, institutions, participants and financial instruments. States must play an important role. The legal basis for regulating institutions must be clear, raising money is a state function; and the state must provide development controls and a national planning policy.

Countries new to the market are choosing a single unified land registry in which text and graphics are merged to assist computerization and coordination.

Questions and Discussion

Jack Dalance? Of Qsld referred to Tommy's identification of Netherlands as an example of a "privatised cadastre" in that he had described it as a "private like cadastre". Tommy explained that the idea was to make it more business like, independent from government, operating cost recovery principles and economic accounting like a private company. Sweden's system runs this way. The land administration system should achieve cost recovery. The processes of data collection for topographic mapping and databases go to tender to the private sector.

Peter Kentish of South Australia asked Andreas about Bulgaria. Peter saw a constitutional problem which separated the land register and the cadastre. The World Bank expert had recommended that Bulgari not get money until it had introduced a single or combined cadastral model.

Andreas remarked that it was up to the country to choose a model for its cadastre. Countries with two organisations have legislative problems. Without these barriers, countries go to a single authority land registry. Hungary had in 1971 unified its land registry even in the socialist system with the aim of controlling properties. Poland, on the other hand, will never have a unified system, and is looking for a third partner of Ministry of Finance who provides land tax and valuations.

? Question about the implications for a cadastral infrastructure for sustainable development when restitution was unsustainable. What was the point of offering restitution and compensation for people when these countries were unable to feed or pay ordinary salaries to their people?

Andreas pointed out that restitution and compensation were high cost, but cultivation of land patterns remained the same despite the political changes. Ironically, people wanted ownership principally to sell the land.

Short summary

The session examined the problems of Western European countries particularly those starting from a low base of market understanding and administrative competence after moving from socialist to capitalist economies. It pointed out many of the practical limitations in their legal structures including the design available in the law for building tenures. The pattern emerging is for introduction or embellishment of land administration systems which combined text and graphics (although this was difficult in countries which had rigid constitutional separations of their administrative agencies, such as Poland). The common experiences of lack of resources and human skills among these newly emerging European nations had led to a sharing of information and development of MOLA to off-set disadvantages.

How far international agencies such as the UN and the World Bank were able to assist was an open question. Their assistance was however imperative for countries dealing with questions so fundamental as those created by Chernobyl and massive environmental disasters.