

CADASTRE IN EUROPE

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Abstract

In this presentation we try to make a parallel in terms of systematic and sporadic land registration for three European countries. The countries that we have chosen are England, the Netherlands and Romania. We will discuss about a short history of cadastre, important laws governing land registration, the types of cadastre, the institutions responsible for cadastre in each country and the benefits of land registration.

Keywords: cadastre, law, parallel, type, benefits

INTRODUCTION

A cadastre commonly includes details of the ownership, the tenure, the precise location (some include GPS coordinates), the dimensions (and area), the cultivations if rural, and the value of individual parcels of land. Cadastres are used by many nations around the world, some in conjunction with other records, such as a title register. The cadastre is a fundamental source of data in disputes and lawsuits between landowners. Cadastral surveys document the boundaries of land ownership, by the production of documents, diagrams, sketches, plans (plats in USA), charts, and maps. They were originally used to ensure reliable facts for land valuation and taxation. An example from early England is the Domesday Book in 1086. Napoleon established a comprehensive cadastral system for France that is regarded as the forerunner of most modern versions. Compulsory land registration has existed in England only since 1926, though voluntary land registration started in 1862 and London has had compulsory registration since 1899. There has been a land register for Middlesex (the county next to London) since 1708. 1714. Initially compulsory registration only applied to specified geographical areas but since 1990 it has covered the whole country. Compulsory registration came about following major legal

reforms in 1925. Until 1925 many owners of real estate possessed a tenure called copyhold rather than freehold. Under legislation passed in 1925, copyholds were converted into freeholds and this necessitated the creation of a national register of ownership

In 1810 the introduction of a fiscal cadastre became actual after the earlier mentioned annexation of the Kingdom of the Netherlands by France. The French legislation came into power. Some years before, in 1808, Napoleon Bonaparte, who needed money to finance his activities, decided to establish a system of land taxation, based on an accurate inventory of land use and land ownership, with precise land survey of land parcels: a fiscal cadastre. In 1811 it was decided that also in the occupied Netherlands such a system of land taxation should be introduced. As a consequence, in 1812 the work started to survey the land, and to list users and owners of the land parcels.

The introduction of cadastre and land registry in Romania differ from province to province since the XIX century:

- In Transylvania, Banat and a part of Bucovina was adopted Austro-Hungarian system since 1794 and continue as „Cadastre Concretual” (it refers at delimitation, description and representation of

limits localities, hydrographic networks and communication routes.

- in Wallachia and Moldavia since 1831, respectively 1832 engineers prepared by Gh.Asachi and Gh.Lazar try to introduce the cadastre.

-in the rest of the country, the cadastre is introduced after the first mondial war.

MATERIALS AND METHODS

In order to characterize the cadastre the following indicators were used: types of cadastre in England, the Netherlands and Romania, legal requirement for registration of land ownership (compulsory or optional), the institutions responsible for cadastre in each country and the land register.

RESULTS AND DISCUSSIONS

England

The responsibility for registering applications relating to land rights including ownership, mortgages, burdens and easements rests on the Land Registry, which is a public Agency of the Ministry for Constitutional Affairs (the Ministry of Justice). The Head of the Land Registry is directly accountable to the Minister. He has extensive judicial powers and he and his staff will determine the great majority of all issues and disputes relating to land rights. The interests registered are guaranteed by the State and those whose rights are registered can be indemnified if they suffer loss through an error or omission on the register. Citizens are free to appeal to the High Court if they wish to challenge the decision of the Registry.

The Land Registry is responsible for keeping and updating the land register, which is open to public inspection. A certificate of registration is issued to each registered owner, or to the lender where the owner has taken a mortgage to buy the property. Each certificate and register incorporates an official plan, prepared by the Registry's staff, which includes the extent of the registered property and any registered rights or burdens. This official plan is based on the largest available scale of the national topographic map published by the Comparative Analysis on the

Cadastral Systems in the European Union 6 Ordonance Survey (the National Survey and Mapping Agency). When an owner seeks to sell or otherwise deal with the land, he uses a copy of his registered title as a proof of his or her ownership or other rights.

The aims of the Land Registry are:

- to maintain and develop a stable and effective land registration system throughout England and Wales as the cornerstone for the creation and free movement of interests in land;
- on behalf of the Crown to guarantee title to registered estates and interests in land for the whole of England and Wales;
- to provide ready access to and guaranteed land information as enabling confident dealings in property and security of title to achieve progressively improving performance targets set by the Lord Chancellor (the Minister of Justice) so that high quality services are delivered promptly and at lower cost to users.

The work of the Registry can be divided into two main areas:

- transactions which create, change or cancel entries on the register. The land register, which is wholly open to public inspection, is constantly updated by the registration of sales of property, associated mortgages and discharges of mortgages. Other registrations relate to the creation of new rights or a mortgage or discharge not associated with a purchase;
- searches and information enquiries. The majority of searches and enquiries are made by those contemplating buying or otherwise dealing with land or lending money on land. These are the essential enquiries made by an intending buyer or lender to ensure that there are no impediments, risks, or unknown burdens affecting the land. Under the English system the issue of an official certificate of search also gives the applicant 'priority' for 30 working days ahead of any other transaction that may arise. This system of protection is greatly valued by purchasers and lenders. A significant number of enquiries will also be made by those who wish to find out ownership and other information about the legal interests in a property. These enquiries could be from tenants, neighbours,

family members, creditors, law enforcement agencies, local municipalities and other official bodies.

The Land Registry has a Head Office in London and 24 regional offices throughout England and Wales. Each of these regional offices serves a defined geographical area comprising a number of municipalities. The Computer Centre is in Plymouth. In each Regional Office the Land Registrar is responsible for maintaining the land register for the region. Under the provisions of the Land Registrations Act the Land Registry must be a lawyer. He or she has extensive judicial powers under the law to grant title and to resolve disputes. Each Regional Registry is managed by an Area Manager who is responsible for finance, personnel, production, and meeting operational and financial Comparative Analysis on the Cadastral Systems in the European Union 22 targets. On average each office serves areas with a population of 2 million and employs in the region of 320 staff.

It is estimated that there are 23 million separate parcels of land of which nearly 20 million are registered. The majority of unregistered properties are government or municipal properties which have not been subject of any sale since compulsory registration provisions became law.

The Agencies responsible for land administration (cadastral) functions in England are:

Table 1.Type of registration system: title registration

	England and Wales
National Mapping	Ordnance Survey
Land Registration	Her Majesty's Land Registry
Land Valuation	Valuation Office
Land Use	Environment, and Agricultural Departments and County and Local authorities

The Netherlands

In the Netherlands there exists one single land registry and cadastre. It comprises all lands, and all territorial waters, whoever is the owner. The main concept of the system of land registry and cadastre is the recording of the relationship between men and land, through a formal right. The State owns land, of course, however from a point of view of the civil code the State is an owner like anybody else. Also the rules for transfer etc. apply to the State, except for paying land taxes. There does not exist something as 'state lands'.

In the Netherlands a system of licensed private surveyors mandated to do the cadastral survey, does not exist. Land registration and cadastral mapping are tasks at national level, assigned by mandate (Civil Code and Cadastre Act) to the Cadastre, Land Registry and Mapping Agency. The Agency comprises a head office and 15 regional offices. In these offices the registers are kept, the boundaries surveyed, maps maintained and information disseminated. Since the merger with the Topographical Service of the Ministry of Defence, now called 'Topographical Service Kadaster', also their offices in Emmen are part of the organisation. However the private sector plays a role in the sense of being contracted to do specific jobs under the supervision and responsibility of the Agency. At date various levels of surveyors have their own association. Senior staff members of the Agency (surveyors, land registrars, managers etc.) are normally member of the Association for Cadastre, which is mainly a labour union type of association.

The land registers and cadastre serve a multipurpose aim. First of all the Civil Code prescribes 4 requirements for a legal transfer of rights 'in rem', namely right of disposal of the seller, agreement between buyer and seller, obligatory title, and recording in the public registers hold by the Agency.

The main concept of the system of land registry and cadastre is the recording of the relationship between men and land, through a formal right. The recording of the relationship men-right-land is based on the recording of notarial deeds. Public registers are registers in

which notarial deeds are recorded as they come in. They are comparable with the land registers kept by the courts in other countries. The public registers are kept in analogue format: books with paper deeds, copied to microfiche. Both cadastral registers and cadastral maps are 100 % in digital format.

Type of registration system: deeds registration.

Romania

Definition of General Cadastre described with Law no. 247/2005 is: "general cadastre is the unitary and compulsory system of technical, economic and legal buildings all across the country; By building means one or more adjacent parcels, with or without construction belonging to the same owner, The means the area of land plot with the same category of use, out of the general cadastre system is meant for the entry in the realty advertising."

Today cadastre is an information system for all land and real estate, regardless of their destination and the owner. It consists of the general cadastre and special cadastres, called today and domain specific information systems. Thenationally efforts made by introducing general cadastre, program that is running today. Looking to the future introduction is a necessity and will depend on European policies or other state cadastre trend. Since 2004 established The National Agency for Cadastre and Land Registration (ANCPI), a public institution, which has as a priority the development and improvement of an effective registration system throughout the country, according to European standards. The goal for this institution, in the future, is to develop a complex computerized database, unitary, but also accessible and easy to maintain in the field of cadastre and real estate publicity. The agency has the authority, at the county level, of 42 cadastre and land registry offices (OCPI), local of 132 cadastre and land registry offices (BCPI) and the National Centre for Geodesy, Cartography, Photogrammetry and Remote Sensing (CNGCFT).

ANCPI developed a centralized application for managing real estate in Romania called "eTerra", which provides spatial data standardization at national level in terms of

land and buildings, creating a uniform and consistent database [2].

The data obtained and provided from ANCPI are important since this is used by the local government, in the real estate and the national and international business. By developing the "eTerra" application, data will be accessible online through the geoportal. The geoportal will be developed by ANCPI based on ESRI technology [2].

Licensed private surveyors can perform works in cadastre, geodesy and cartography in Romania, with a certificate of authorization issued by ANCPI. It is issued on the basis of an examination organized by ANCPI.

The main conditions that applicants must fulfill are specialized studies and experience in performing specific work field. To complete the work the authorized surveyors are contacted and paid by the owners, based on a tax free negotiations. Most specific, they perform measurements and technical work necessary to register : the ownership of a property unregistered in the Land Registry, peel off a building , adding two or more buildings with common borders , modification of the property , modification of the real estate. The works performed are subject to approval by ANCPI through OCPI, according to the Regulation on the approval, verification and acceptance of specialized works in cadastre , geodesy , topography and cartography. In case of registration in the Land Registry of juridical acts and deeds, authorized persons drawn cadastral documentation which are approved by the regional offices subordinate to ANCPI.

Type of registration system: deeds registration

CONCLUSIONS

In this paper work we try to illustrate that The Netherlands, Romania and England have a very different system of cadastre. As we seen, it is not correct to say that the UK does not have a cadastre. Rather what it has are two types of cadastre that fulfil very specific functions. What the UK does not have is a general cadastre. These two types of cadastre are those for agricultural land and for real estate taxes. They have been created to enable

the government to fulfil specific functions. On the other hand, Romania has general cadastre and also special cadastre.

Another difference that we can see is that in The Netherlands a system of licensed private surveyors mandated to do the cadastral survey does not exist, which is not valid for Romania. Here are private surveyors licensed by ANCPI or OCPI.

As a resemblance, we can see that in these three countries the land registration is kept by a Head Office, which has in subordination Regional and Teritorial Offices, each one of them responsible for a specific area.

In conclusion, except the differences, cadastre benefits are the same in all three countries: security of real estate transactions, provide information about property(mortgage,

property rights), informations about the owner.

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