

The Bulgarian Cadastre and Property Register Act and the Pertinent Project

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ABSTRACT

The new Cadastre and Property Register Act (CPRA, April 2000) of Bulgaria was called upon by the mass restitution and privatisation of real property which took place in the 1990s, and the need to support the emerging land markets. To implement the CPRA and its long term programme, the Government has launched an extensive, nationwide, five-year project supported by the World Bank in 2001. The paper describes the model of cadastre and land registration set by the CPRA and its secondary legislation, as well as the background, present status, forthcoming tasks and pending issues of the Cadastre and Property Register Project.

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1. THE CADASTRE AND PROPERTY REGISTER ACT (APRIL 2000)

1.1 Background

1.1.1 Present Land Registration System and Cadastral Mapping

Under the totalitarian régime in the second half of the 20th century, Bulgaria by tradition applied its deed registration system, adopted in 1910 by Belgian model. It is run by the lowest instance district courts. Data in it cover only transactions between private individuals, indexed after the transferee name. Legal records of public property were kept by other central and local agencies. Property identification by reference to cadastral mapping, is just a supplementary tool in the system. Cadastral mapping itself was maintained primarily for planning purposes in urbanised areas. Physical, rather than legal boundaries are recorded in it, and property identifiers in the cadastre get repeatedly and unsystematically changed in the map revision process. Lists of owners attached to the cadastral records have low, if any, legal value and were hardly maintained, due to the principle disregard of private ownership.

1.1.2 Developments in the Transition Period

In the early 1990s Bulgaria embarked on market reforms, also in the real property sector. Private real rights and liberalised land markets were restored by law. Democratic local governments were re-established, so municipal and central government property were regularised by law. Restitution of farm and forest lands, nationalised and expropriated real property took place, affecting nearly 90% of the territory of the country. A multitude of new owners and land parcels emerged. These were recorded in new, quasi-legal, ad-hoc farm and forest land registers and land reallocation maps, based on simple digital technology. Such land records are technologically hardly compatible with the legal, yet outdated and cumbersome registration system maintained by the district courts and covering mainly the urbanised areas. Liberalised urban land markets brought about a boom in the number of transactions at the same time. As a result, the issues of land tenure security gained higher national priority. The public notary function was privatised.

1.1.3 Major Land Administration Issues

Major land administration issues faced by Bulgaria in the late 1990s are the incompleteness and fragmentation of land records, inadequate land tenure security and lack of efficient information systems and technology. Despite its achievements, cadastral mapping in Bulgaria has never reached full coverage of the territory. The present mapping is fragmentary, since the administration of farm and forest lands on the one hand, and urbanised areas – on the

other has never been in one single government institution. Likewise, the land registration function for private and public land has never been uniform and in one register.

Obviously, the land records of rural (farm or forest) and urbanised land in peri-urban zones frequently have gaps and overlaps in documented ownership. Further, the present technology for up-dating land records does not guarantee a reliable, continuous or timely update. In consequence, the functioning of the real estate market is impaired by the poor quality of the official land records and land information services. This has degraded the legal security of real rights and credibility in the integrity of government institutions. The lack of a streamlined information system makes it difficult for owners or their representatives (real estate agents, lawyers, notaries) to trace real estate records.

1.1.4 Approaches to the Reform

Key amendments to the legislation were inevitable in order to respond to these issues and create a viable environment for land markets. The debate in professional circles on a new land administration policy of Bulgaria and new cadastre and land registration legislation dates back to the early 1990s. Several draft acts have been considered by three consecutive Parliaments since 1991. In 1993 / 1994 the concept for a radical change and introduction of a title registration system of Germanic model was prevailing. Later governments abolished this concept as being drastic and risky. The final decision, embodied in the Cadastre and Property Register Act (CPRA, April 2000) introduces an improved, property based deed registration system underpinned by a comprehensive cadastral map.

1.2 Cadastre and Property Register Model Introduced by the Act

1.2.1 Some Statistics about Bulgaria

» Population (2000)	7,973,671
» Area	111,994 sq. km
◦ Urbanised areas	4,637 sq. km
◦ Farm lands	64,304 sq. km
◦ Forest lands	36,569 sq. km
» Estimated number of landed properties	12,500,000

1.2.2 Basic Features of the Improved Cadastre and Property Register System

The new Bulgarian system will remain a deed registration system, which is familiar to the public. The transfer of real rights takes place with the signature of a deed in front of a private notary. A deed has legal force for third parties only upon its compulsory registration in the registry office at court within the day of signature. The notary must submit it to the judge-registrar. Present practice indicates virtually no unregistered transactions. In general terms, the state is not liable for damages caused by incorrect data kept in the property register. Registered real rights can be contested in court. One system alteration is that all types of real property transfers are subject to registration now, regardless of the type of property conveyed – private or public. Major system innovation is that property descriptions in the deed must

include a unique real property identifier – link to the cadastre. Deeds will be indexed according to these identifiers. In terms of technology, the CPRA provides for a modern computer information system, linked to the cadastral one, to be introduced in registry offices.

Basic unit of the cadastre will be the landed property. However, buildings and self contained objects (by ownership) in buildings are also cadastral objects. This is justified by a very high incidence of separate ownership on the land and the building erected on it. Unique property identifiers will be assigned only by the cadastre. Major system improvement will be the comprehensive cadastral map for all types of land – rural (farm or forest) lands and urbanised areas. The new map will be kept in digital format, and maintained in a computer information system, which will also furnish the data necessary for delivery of services to the public.

1.2.3 Purpose and Contents of the Cadastre and Property Register System

The major purpose of the new system is legal security of land tenure and market transactions, and support of more active land markets. The present system has no fiscal or real estate assessment functions. By law, the cadastre data must be used as a basis for the development of multipurpose land information systems, but there is no obligation for the cadastre to collect such extended data. Still, the CPRA provides for the storage and maintenance of additional geo-referenced data in the cadastre system. Because of the strong tradition, it is expected that the cadastre will keep as additional data the topographic information necessary for urban planning, public utilities and others, but this will be a matter of contractual relationships after the establishment of the framework – the cadastre information system.

The contents of cadastral mapping covers all property boundaries fixed by geodetic coordinates, state borders and administrative-political boundaries, property identifiers, addresses; permanent land use; buildings. Basic data maintained by the cadastre include also geodetic control points in the unified national reference system, property area, number of floors for buildings.

The property register is the systematic array of folios of individual real properties. In it are recorded those deeds that recognize or convey right of ownership or establish, convey, modify and terminate other real right over real properties, interdicts and mortgages, as well as other legal actions, circumstances and legal facts for which recording is stipulated by law. No public restrictions are registered in the property register. The folio of each real property is comprised of sections with entries about the property; about the owner(s) and the recognition or conveyance of the right of ownership; about the establishment or conveyance of other real rights; about mortgages (hypothecs); and about interdicts.

1.2.4 Responsible Bodies for Land Registration and Cadastre and Links between them

The property register is public. The body keeping the register remains the same – this will be the judge-registrar in the district court, who currently performs the entries of deeds concerning real properties under the personal registration system. In this way, the tradition in Bulgaria is preserved and difficulties related with establishment of new bodies are avoided. The district courts with the judge-registrars and the clerks in the registry offices, respectively

are a part of the independent judiciary power. The Ministry of Justice provides technical and administrative support to the court system. Services are delivered to the public by the 112 registry office at the district courts which are evenly distributed throughout the country.

The cadastre is also public. A new body – the Cadastre Agency at the Minister of Regional Development and Public Works – is in charge of setting up and maintaining the cadastre. It will take over the cadastral data maintenance function of the presently operating land commissions and the municipal technical services. The Cadastre Agency will have 28 regional offices, evenly distributed throughout the country in the regional centres. Land commissions are special land restitution jurisdictions under the Ministry of Agriculture and Forestry, keeping ad hoc the rural (farm or forest) land records. Municipal technical services presently keep the cadastre of urbanised areas, along with the urban planning regulation schemes. There are land commissions and technical services in each one of the 272 municipalities in the country. The terminal points for cadastral information services to the public will remain within the municipal structures, in implementation of the “one shelter service” approach applied within the frame of public administration reform in Bulgaria.

The link between all responsible bodies is legally defined, and will be realized by information technology (IT) means. The information systems will be hooked up by the unique property identifiers. The CPRA provides for computerization of both the cadastre and the property register, creation of the linked information systems, and stipulates the use of modern telecommunication means. In this way, the development of uniform information environment will be ensured. Although formally separate, the information systems will be virtually one system and data duplication will be reduced to a minimum. The information systems will generate also all cadastre and registry information for any service delivery. The law stipulates for links to other national registry information systems, like commercial company registers, registers of civil status, etc.

1.2.5 Private Sector Involvement

Private sector participation in the establishment and maintenance of cadastre is legislatively stipulated. The CPRA provides that cadastral activities may be performed by qualified individuals and companies. The Cadastre Agency keeps a public register of qualified persons, who may be contracted for cadastral surveying and mapping activities. Individuals with a vested interest may employ a qualified person to produce sketches of landed properties and buildings, charts of self-contained objects in buildings, designs for partition and consolidation of immovable properties, and to perform the relevant land surveys.

1.2.6 Principles of Implementation and Transitional Arrangements

Implementation will be phased in so that the new system would step by step cover up the whole territory of the country. In the transitional period, registration will be performed in the effective personal system. In parallel with the legal registration in the personal system, the information system will automatically generate preliminary property folios for those properties, which change hands. Under a Government programme, setting up the cadastre and the property register will start district by district (court jurisdictions). A prerequisite for

starting the legal operation of the property register will be the completion of the cadastre in the district. The introduction of the property register in effect will take place only for whole court districts, i.e. when in certain court district the cadastre is fully completed and approved, and the property folios for all properties are prepared. There are no formal provisions for adjudication of real rights in the process of establishing the register.

The cadastre will be established gradually by separate administrative areas (the territories belonging to each of the 5,340 settlements), or their parts. As a rule, the coverage of whole district court jurisdictions will be aimed at, in order to ensure consistent setting up of the property register. All available information sources will be utilised: cadastral maps of urbanised areas and rural land reallocation schemes, fiscal land records, municipal urban planning regulation schemes, departmental cadastral records of utility companies, etc. New land surveys will be performed only where the existing mapping is outdated and of poor quality. Quality assessment will take place in the process of digitising urban mapping and matching it to the property data in rural areas.

1.2.7 Rationale of the National Programme for Implementation

The Bulgarian government has approved a 15 years programme (2000 – 2015) for completion of the land administration reform, stipulated by the CPRA. It considers the activities involved in realization of the cadastre and property register system, the spatial and temporal frames, the institutional building and human resource aspects, financial projections. According to this programme the cadastre and the property register shall be created systematically by court districts, with funds from the state budget. The cadastre and property register are developed as a modern high-tech geo-information systems. They should be self-supported after full establishment in the whole country. Revenues will be generated by service delivery to the public, government departments, and other corporate clients.

Starting in a situation where existing cadastral mapping and land registration records are organizationally fragmented, substantively incomprehensive and mismatching, maintained inefficiently and where land administration bodies deliver inadequate public service with insufficient legal security, the national programme outcome will be consolidated and comprehensive, fully compatible land records in the cadastre and the property register, maintained by modern information technology (IT) and assuring adequate public service. The task however requires considerable upfront investment, which was not affordable for the transitional economy of Bulgaria. That is why the Government applied for a loan from the World Bank in order to fund the initial phase of the reform.

2. THE WORLD BANK PROJECT

As a result of more than two years of project preparation assisted by World Bank experts and influenced by the Bulgarian legal drafting and strategic programming procedures, the Government of Bulgaria signed a loan agreement with the World Bank, and the Bulgarian Cadastre and Property Register Project is already effective since the last quarter of 2001.

2.1 Project Objective

Major goal for Bulgaria today is to build up a functioning market economy and satisfy the accession criteria of the European Union. Hence, the objective of the Cadastre and Property Register Project to facilitate equitable land markets and secure real property rights, perfectly fits the general thrust of Bulgarian society.

By improving the integrity, coverage, completeness, currency and responsiveness of the cadastre and property register system, the Project will support investment in real estates for commercial purposes, activate the land markets, as well as improve access of land owners to credit. The rate of land disputes will be reduced which will save public efforts and resources.

2.2 Time Frame and Scope, Major Focus and Lateral Activities

The Project will be completed in five years time. An estimate total of nearly US \$ 40 million worth of works, goods and services will be delivered within the Project. It will focus on the development of the two elements of the Bulgarian land administration system and the launch of joint operation of the new cadastre and property register. The Project will also deal with appropriate policy development and completion of the legal frame, training, public awareness and legal extension services for the most disadvantaged citizens.

2.2.1 Land Administration System Development

This part of the Project will build up the institutional capacity of the newly set up Cadastre Agency with its 28 regional offices, and reinforce the 112 registry offices at the district courts, to deliver cadastre and land registration services. The premises of all regional cadastre and district registry offices will be refurbished, furnished with office and specialised archive furniture, equipped with modern office equipment and computer hardware and software. Vehicles will be purchased for the Project beneficiaries. In terms of technical assistance, the Cadastre Agency and the Ministry of Justice will be supported in developing their office procedures, records management practices, information technology (IT) strategies, business planning practices – involving cost recovery, customer service standards, and human resources strategies.

2.2.2 Joint Operation of the New Cadastre and Property Register

This core part of the Project will be the backbone of practical implementation for the cadastre and property registration systems. The work primarily involves setting up the geodetic and information technology (IT) framework and the coordinated actions on data gathering, assessment, digitisation, data structuring and verification, compilation of the integrated comprehensive cadastral map and property register and the joint information systems.

As an integrated sub-project, a new national GPS control grid based on EUREF will be designed, built up, observed, adjusted and implemented. It will consist of approximately 430 control stations, evenly distributed throughout the territory to ensure density of one station per 250 sq. km, or availability of a control station within a range of 10 km from any location.

A major task in this Project part is the development of information systems and computer software. Early in the Project, computers will be installed in all registry offices at the district courts to start the conversion of paper records in digital format and generation of preliminary property folios on a sporadic basis. The prototype of the joint information systems of the cadastre and the property register will be designed, developed and tested in the first half of the Project. These have to comply with the national exchange standard for geo-data to be introduced under the CPRA, and with the national IT strategy of the Bulgarian Government.

By this Project part, the two land administration institutions will collect the available data from various sources in one place and have them digitised and analysed. The major data sources for the cadastre will be the farm and forest land reallocation schemes, presently maintained in digital format by the 272 municipal land commissions and the urban cadastral plans and urban planning regulation schemes, maintained frequently (about 90%) on hard copy by the 272 municipal technical services. For the registry offices, major data source will be the books and ledgers kept only on paper under the personal deed registration system since 1910 (88 district registry offices have no computers at all). Additional sources will be the real property taxation records, based on voluntary tax declarations by the owners, the records of public property kept by public administration bodies, the specialised cadastral records of utility companies, transport authorities, environment and waters departments, international treaties fixing demarcation of national borders, etc. The data will be revised, partly amended as office exercise with very limited field surveys, and structured to form the preliminary digital cadastral map and preliminary real property folios. Those urbanised areas which require substantial field survey work and which will be subject to systematic surveys will be identified in the course of this data integration.

One target is within the 5 year frame and funding ensured by the World Bank Project to achieve a topologically correct, comprehensive digital map basis (“preliminary cadastral mapping”) covering the whole country and capable of supporting the operation of the property register, and to have the systems launched and sporadically maintained by modern technology through their information systems. Geometric accuracy of the cadastre and completeness of the data in the registry system will be systematically improved – district by district – under the 15 years long term programme of the Government, and sporadically revised on an ad hoc basis in case of real property transactions, or implementation of spatial planning schemes and investment (land development) projects. Another target for the Project is to have the systematic cadastral mapping and registration works completed on 30% of the territory of the country, starting as pilot with smaller municipalities and districts.

2.2.3 Lateral Activities

The Government of the Netherlands has granted US \$ 2 million to the Bulgarian Government in order to supplement the funding of the World Bank Project. This money will be managed by the World Bank in the same way as the loan proceeds. Some lateral activities, which are crucial for the Project success will be co-financed on these funds – training, foreign technical assistance for policy development and completion of the legislative frame, public awareness campaigns and legal extension services for the most disadvantaged citizens.

Training is targeted at personnel of the Cadastre Agency and the district courts. Workshops for district court judges, notaries, staff of the Ministry of Justice, as well as private contractors and real property professionals will also be held. They will be undertaken by the University of Architecture, Civil Engineering and Geodesy. There, within the Faculty of Geodesy will be created a training unit to run the training modules. The subjects will cover technical issues and pertinent procedures under the CPRA. Courses will be divided in five modules: computer skills, cadastre, property registration, information technology, and management and marketing. A target figure of 2 000 people will be trained under the Project.

The development of cadastre and land registration regulations and procedures will be ongoing in the next years. Revisions of the legislation will be done for omissions, and to integrate the positive experience gained and the lessons learned during pilot activities. Procedure manuals will be developed to clarify ambiguities. Condominium and mortgage provisions need optimisation and improvement as there are issues with foreclosure in mortgage legislation and ownership and use of common property in apartment condominiums. Under the Project technical assistance will be delivered to investigate and recommend solutions to such issues.

An urban property markets study was conducted during the Project preparation phase and some factors inhibiting market activity were identified. The principal problem of land tenure insecurity is being dealt with by the Project, but there is also a lack of land values data about sales and leases and problems with valuation methods and standards. These issues will be addressed by conducting further market studies and development of relevant policies.

Public confidence in the new cadastre and registration system and the process of converting from the existing system to the new one is of paramount importance. A public awareness strategy will be developed early in the Project, concentrating on the support of landowners and on cooperation from the key professionals involved in land market activities. In rural areas the public are less aware of their real rights and have less access to the legal remedies in towns because of cost or accessibility. To assist the most disadvantaged citizens, legal extension officers will be based at the district court level, who will regularly visit the municipalities. Within the Project there are funds allocated to customer satisfaction surveys.

2.3 Organization and Management

At the strategic and policy level, the Project will be managed by a Steering Committee chaired by the Deputy Ministers of Regional Development and Public Works and of Justice, and with membership from all relevant ministries, the Supreme Judicial Council, the National Association of Municipalities and appropriate professional institutions. The co-chairpersons are entitled to take urgent decisions on behalf of the Steering Committee between sessions. Operational management (i.e. planning, financial management, reporting, disbursement, procurement, implementation and monitoring and evaluation functions) is vested in the Project Management Unit (PMU) which was set up at the Cadastre Agency. The PIU Director reports to the Steering Committee. A Property Registration Control and Management Unit is being set up at the Ministry of Justice, in order to ensure that all functions with regard to property registration aspects are carried out in a coordinated manner.

The PIU works in close co-operation with all the parties involved in the project, in particular with the Project teams established within the Cadastre Agency and the Ministry of Justice. They are mainly responsible for drafting technical specifications, terms of reference, legal documents and norms. Project teams also assist in monitoring and evaluation with project assessment, supervision of implementation, technical monitoring, etc. Most activities on the initial production of the cadastral map and property registers will be contracted out under World Bank procurement rules, and the land administration institutions will retain only administrative, maintenance and quality control functions.

2.4 Major Challenges and Pending Issues

The major problems faced by the Bulgarian land administration reform and the pertinent World Bank project are related with legal, organizational and management problems, rather than technical issues. Despite all efforts of the survey profession in Bulgaria, the Cadastre and Property Register are still within the responsibility of two separate institutions. This makes management more complex and coordination of joint operation more difficult. The Cadastre Agency as a new institution has to quickly develop the capacity to run its own organisation, as well as a major portion of such a complex project. The provision for two joint, yet separate information systems of the cadastre and the property register will make the information systems more complex and difficult to maintain. The country has insufficient experience in running such a large information system. One of the most serious challenges will be the transition from the present legal arrangements for funding these functions and introducing a cost recovery model.

On the other hand, these apparent problems give opportunities to improve the land administration reform model in the course of programme and Project implementation. In this respect, Bulgaria will also rely on international experts to provide relevant consultancy for the analysis of such opportunities and identify the ways to improvement.

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BIOGRAPHICAL NOTES

Vladimir Evtimov graduated from the University of Architecture, Civil Engineering and Geodesy in Sofia in 1986, acquiring the degree of an Engineer (MScEng) in Geodesy, Photogrammetry and Cartography. He is a member of the Bulgarian Union of Surveyors and Land Managers, and of the Bulgarian Association of Valuers of Real Property.

His career started as a researcher in cartography at NIIGiF (research and development institute of geodesy and photogrammetry). Since the beginning of transition to market economy in Bulgaria (1991), his interests gravitate towards land administration reform, land markets development and public administration reform. He was involved in consulting, project administration, technical assistance, training and research with a number of international projects in Bulgaria, funded by EU Phare, the British Know-How Fund, USAID, UN FAO, UNHCR, the World Bank. He is the co-founder and present director of a private Bulgarian geomatics company, Mapex JSC.