



**Economic and Social
Council**

Distr.
GENERAL

ECE/HBP/WP.7/2009/5
31 March 2009

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE ON HOUSING AND LAND MANAGEMENT

Working Party on Land Administration

Sixth session

Geneva, 18–19 June 2009

Item 5(c) of the provisional agenda

PROGRAMME OF WORK FOR 2010–2011

LAND ADMINISTRATION REVIEWS

LAND ADMINISTRATION REVIEW OF BULGARIA

Note by the secretariat

Summary

As part of the Working Party on Land Administration's programme of work, a research mission to Bulgaria took place from 14 to 19 October 2007 with the purpose of carrying out a land administration review (ECE/HBP/WP.7/2007/10, para. 32). This document summarizes the findings of the international experts participating in the mission and presents policy recommendations for improving land administration practices in Bulgaria. The complete land administration review will be discussed by the Bulgarian authorities and the Working Party during the sixth session (informal notice 3).

I. MAIN ISSUES AND CHALLENGES TO LAND ADMINISTRATION IN BULGARIA

1. Bulgaria's transition from a centralized to a market-oriented economy started in 1990. After a severe economic and financial crisis in 1996, the country adopted a broad structural reform programme with international support. A series of institutional reforms have since taken place that are of key relevance for land administration policies. The present land administration review analyses these changes as they relate to the agricultural sector, the cadastre and registration systems, cadastral surveying activities, geodesy and the real estate markets.

Reforms in the agricultural sector

2. Since agricultural land in Bulgaria had been expropriated from its owners during the collectivization process, all restitution was made from State-owned land. Throughout the period of reforms, agriculture was negatively affected by the fragmentation of farmland that resulted from the landownership restoration process. This posed a significant barrier to long-term investment and the efficient use of agricultural machinery.

3. Through privatizing and distributing most of the cultivated agricultural land amongst the population, most of the State farms were abolished and, in some cases, productive agricultural enterprises were divided in less efficient units. Agricultural output has fallen since then, while at the same time the living conditions in rural areas have deteriorated.

4. Land fragmentation is a serious threat to rural development. Due to fragmented landownership, 79 per cent of the utilized agricultural land holdings are being leased. Alternative forms of land consolidation in Bulgaria, including voluntary lease exchange, voluntary land consolidation and statutory land consolidation, have proven to be an important instrument for rural development. Land consolidation can enable farmers to become more competitive by both countering the fragmentation of parcels and allowing farmers to expand the size of their holdings. However, the leasing market has not been able to resolve the structural deficits in Bulgarian agriculture concerning farm size. Leasing prices are too high and economically unprofitable. Real incentives for promoting land leasing are still missing. Up to now, land consolidation projects have only been possible on a voluntary basis due to the lack of relevant legislation (i.e. a land consolidation act).

5. The Geodesy, Cartography and Cadastre Agency (GCCA) has been investing considerable sums and efforts in mapping and renewing the real estate cadastre and registering territorial boundaries and landmarks, work that will not be completed before 2015. However, land consolidation activities should be completed before further mapping is carried out in order to avoid re-mapping of the same parcels of land.

6. The State Land Fund (SLF) is the only option currently available to finance land reform initiatives. The overall amount of land in the SLF was 251,284 ha at the end of 2004. This amount has decreased since 2003 due to the inclusion of protected areas, the transfer of ownership rights to landless and poor citizens, land transferred as compensation payment and the return of parcels to the former owners.

Cadastral and land registration: the cadastre

7. The existing two-tiered system for real estate cadastre and land registration is influenced by changes and developments regarding the distribution of responsibilities in the administration of land resources. These include land use, taxation and environmental protection. A considerable number of agencies are dealing with land and its registration, including the Ministry of Regional Development and Public Works (for the cadastre, regional development and State ownership), the Ministry of Agriculture and Food Supply (for restoration of ownership of agricultural land and forests), the Ministry of Defence (for topographic mapping, aerial photography and geodetic reference), the Ministry of Environment and Waters, the State Forestry Agency, 28 oblast administrations and 264 municipal administrations. Private surveyors and real estate agents and appraisers also support the land administration work. The system, however, lacks current and reliable area-covering land information needed for the development of regional plans and general spatial plans.

8. The Cadastre Agency was founded in 2001 to be responsible for the field of geodesy and cartography. In 2006, it was transformed into GCCA. The Agency is a corporate body with headquarters in Sofia and 28 territorial units with geodesy, cartography and cadastre offices located in the administrative centres of the oblasts. The Agency implements cadastral activities, including the creation and maintenance of cadastral maps, in close coordination with the registration authorities.

9. Prior to 25 April 2000 (when the Cadastre and Property Register Act passed), cadastral information on real properties was maintained by different authorities. According to existing legislation, any transfer of ownership and other property rights in land was subject to registration by the entry offices at the regional courts. Since 1997, these operations have been performed by private notaries.

10. The Law on Cadastre and Property Register, which entered into force on 1 January 2001, is envisaged to be the basis for the reform on registration and the transformation from person-based to property-based registration. The cadastral information system is designed as the basis for development of multi-purpose cadastre which will result in reduced administrative costs. The Act regulates the cooperation of GCCA and the Registry Agency as well as the exchange of information between them; such exchange is required for a modern, operational, up-to-date and accurate cadastre and property register. Such registers will contain data about all properties on the territory of the country

Cadastral and land registration: land registration

11. The Ministry of Justice implements State policy on land registration. The Registry Agency is an independent corporate body that has its headquarters in Sofia and 113 entry offices at the regional courts. According to established legislation, reform in the cadastre and property registration system must be finalized by year 2015, when all data about immovable properties shall be updated.

12. The Registry Agency is responsible for the organization and management of the entry offices as well as the creation and maintenance of the property register and linkages between the property register and the cadastre.

13. The Property Registry and the cadastre will be linked through unique identifiers to be allocated to each property. Once the Property Register is operational, the cadastre will maintain information on the location and boundaries of immovable properties, while the data regarding ownership and rights will belong to the Property Register.

14. The system should aim to serve both agencies separately, thus creating a “one-stop shop” for a wide range of user groups including local and central authorities as well as the private sector. The unique identifier linking the cadastre and Property Register will consist of a unique number, assigned in accordance with routines and conditions and specified in the relevant pieces of legislation.

Cadastral surveying activities

15. The cadastre covers only the territory with approved cadastral maps and cadastral registers (at the time of the mission, it amounted to about 12–13 per cent of Bulgarian territory). In late 2007, the cadastre covered more than 3,000,000 immovable properties, located mainly in territories attractive to investment and with already well-developed land markets. According to GCCA estimates (in the case of secured finances), by the end of 2010 cadastral information will be available for about 65 per cent of all immovable properties in the country.

16. The cadastral map and cadastral registers are produced from the existing maps of restored ownership (supplied by the municipal offices of agriculture) and the valid cadastral plans of settlements (supplied by the municipal administrations).

17. The cadastral map was based on the 1970 coordinate system and with scales of 1:1,000 for urban territories and 1:5,000 for rural territories. Several inaccuracies (e.g. concerning geometry and data imprecision) have occurred as a result of the fact that restitution of agricultural land and forests was partially done based on topographic mapping at the scale of 1:5,000, without exact boundaries. Errors have occurred as a result of obvious cases of overlap or gaps between maps of restored ownership and boundaries in cadastral plans of settlements: the contact zones.

18. Contact zones constitute a serious obstacle to land administration reform in Bulgaria; they substantially hamper and delay the process of approval of the cadastral map as required by law. The removal of errors regarding the contact zones is performed during the process of making the cadastral map. The licensed surveyors creating the map propose corrections for these errors, and an official commission (consisting of representatives from GCCA, the Ministry of Agriculture and Food, the responsible agricultural office and the municipal administration) reviews and accepts or denies the proposals. As a result, the problem with the contact zone does not exist in the approved cadastral map (the responsibility of GCCA). But the owners of agricultural lands in these territories continue to own property deeds, which are not changed in accordance with changes in the map. Changes to property deeds fall within the competence of the Ministry of Agriculture and Food Supply and its agricultural services. The problem lies in the fact that efforts to harmonize changes in the maps are not enforced or are delayed, as agricultural land to compensate owners is not available (or sufficient funding is lacking), in addition to other administrative reasons. Without prior resolution of these questions involving ownership, no legally valid transactions or mortgaging of the land parcels is possible.

19. The cadastral map and cadastral registers are updated on the basis of information that has to be delivered to GCCA – in cases of the creation of new objects, change of ownership, splitting

or amalgamation of properties, resolving incompleteness and errors etc. The maintenance of the approved cadastral map and cadastral registers is paid for by the owners (the State no longer allocates financial resources for this activity).

20. The cadastral map and the cadastral registers are stored on conventional storage media and are digitally maintained on magnetic, optical or other technical storage media.

21. The field survey activities for cadastre, geodesy and cartography can only be performed by licensed individuals. The licensing process is administered by GCCA. There are more than 300 licensed surveying companies in Bulgaria, with about 40–50 companies actually working in the field.

Geodesy

22. A new geodetic system called the Bulgarian Geodetic System shall be introduced for the whole territory of Bulgaria. It will be determined on the basis of the European Terrestrial Reference System (ETRS). The Bulgarian Geodetic System will include fundamental geodetic parameters, a geodetic coordinate system, a height system and a cartographic projection.

23. Due to the lack of financial resources, the large-scale digital topographic map so far covers only about 10 per cent of the country's territory. In 2006, the whole territory was covered by aerial photography for production of a digital orthophoto map (scale: 1:5,000) by the Ministry of Agriculture and Food Supply in coordination with the Ministry of Defence.

Real estate markets

24. From 1948, the leasing of agricultural land was forbidden by law (with few exceptions). Land was still the main production factor and remained private property, but output resulting from economic activities was declared to be public property. Therefore, de jure and de facto, land rental relationships were frozen.

25. At the beginning of transition (1989), the development of land rental agreements in Bulgaria was stimulated by new legislation. Due to the restoration of the formal property boundaries from the period before collectivization, the reform took a long time to be completed. In 2002, statistic data showed that nearly 100 per cent of ownership in agricultural land had been restored.

26. The Bulgarian property market activity is growing very fast, as witnessed by a turnover of €1.36 billion in 2007. This figure represents the total value of transactions of land and buildings in the country. In 2006, turnover in the sector was close to € billion. Increases in the number of property transactions and in property prices are the most accurate measure to gauge the real estate market situation.

27. The construction sector ranked among the fastest developing in Bulgaria in 2007, with an average annual growth of 15 per cent. The number of property deals in 2007 was expected to reach 292,000. Investment growth in tourism and production and the need for modern infrastructure encouraged more construction.

28. There are no restrictions regarding the acquisition of premises and buildings or limited real rights by foreigners or foreign legal entities. However, there are special restrictions

controlling the acquisition of land by foreigners provided for by the Constitution of the Republic of Bulgaria and the Ownership Act.

29. An owner of a building, self-contained units in a building (e.g. apartments, shops, studios) or a land plot in an urban area is obliged to pay an annual real property tax and waste collection fees. Members of Parliament have vested municipalities with the right to set tax rates on real estate, alongside those on inheritance, donation of real estate and patents.

30. At the time of a property purchase, the tax rate can vary between 2 and 4 per cent of the property's tax valuation; in the case of property exchange, the rate will depend on the tax valuation of the more expensive real estate. From 2008, buildings close to collapse (or hazardous from a hygienic or sanitary point of view) will for the first time be subject to a building tax.

31. Public sources of information on property prices in Bulgaria are in place. The Real Estate Market Index (REMI), which provides price information for houses and apartment buildings, is calculated by the National Association of Real Estate Companies. It has certain drawbacks, however, because it is calculated only on a quarterly basis. It is too general and does not compare real estate prices by type or location.

32. Two main associations have the necessary valuation expertise: the Bulgarian Association of Business Appraisers, which is mainly concerned with the appraisal of businesses in general (but which has a real estate appraisal section of a few hundred people), and the National Association of Appraisers of Real Estate, which currently counts around 200 members.

33. Concerning access to credit, in 2007 the volume of loans grew 58 per cent as compared to the previous year. Although the Bulgarian National Bank (BNB) increased the minimum reserve requirement from 8 to 12 per cent in September 2007, in order to prevent a run on the lev, the number of loans being offered to the public remained steady. While the cost of credit has increased, Bulgarian banks – more than 85 per cent of which are foreign-owned – have chosen to absorb these costs themselves in order to maintain competitive interest rates on loans.

34. Overall, €4 billion in foreign investment entered Bulgaria in 2006, equal to 16 per cent of the gross domestic product (GDP) of the country. In recent years, banking penetration has increased rapidly in Bulgaria, with total banking assets now equal to 97 per cent of GDP. Competition among banks for future business has, according to experts in the industry, led to a narrowing of the interest-rate spread.

II. POLICY RECOMMENDATIONS

Cooperation

35. Increased collaboration and coordination among the authorities dealing with different land administration issues is needed, most particularly a clear allocation of the core responsibilities (with each agency reporting to one specific ministry) coupled with adequate staff availability and financial resources. Land management responsibilities (including land consolidation) should preferably be assigned to only one State authority.

36. In order to avoid errors in the map of restored ownership of agricultural land, cooperation between the Ministries of Agriculture and Forestry and Regional Development and Public Works should be strengthened. This would improve the accuracy of cadastral maps at a later stage.

37. Since its founding, GCCA has taken on many additional responsibilities in the field of geodesy and cartography. Its overall number of staff should reflect the increased scope of tasks assigned to it. It is also important to secure the necessary funds from the annual budget to complete coverage of country territory by the cadastral map. In many respects, progress in practical work is still dependent on many stakeholders in the non-governmental sector.

38. A unified and fully integrated information system should be established consisting of a property register and cadastre with data available for the whole territory of Bulgaria. All authorities and other users of information should have regulated access to a unified database as part of a national spatial data infrastructure.

39. The geodetic framework and topographic mapping at all scales should be maintained by one civil agency.

Legislation

40. Legislation regulating the transfer of property and other rights will speed up the transition from the current system (a person-based registry) to a system where the core of registration is the actual real estate units and existing rights to them. This system will allow for keeping accurate track of property transfers and also take into account the needs created by foreign investment.

41. Implementation of planning processes and additional legal instruments is necessary to prevent inadequate capital investment (and speculation) in agricultural land. An agricultural land tax should be introduced, and existing exemptions regarding land tax should be removed.

Land reform and land consolidation

42. A countrywide land management strategy is lacking regarding the re-conversion of farms. Farmers may expand their holdings through leases or purchases of land. The leasing market is not transparent and voluntary land consolidation initiatives are not able to resolve structural deficits related to farm size. Leasing prices are too high and economically unprofitable. Real incentives for promoting land leasing are still lacking. A statutory land consolidation approach that includes the creation of legal tools for compulsory and voluntary land consolidation is regarded as the most important long-term solution. Experiences with public-private partnership models in pilot projects should also be legally defined. International cooperation should be fostered regarding overall land consolidation processes and the improvement of the quality of life in rural areas.

43. A corporate body composed of all landowners should be established as a legal entity in each land consolidation project to guarantee participation of all stakeholders involved and to avoid arbitrariness in decision-making processes. To obtain co-financing from the European Union, it is important that land consolidation be included in all relevant planning documents as well as in strategic documents and agreements such as the Rural Development Programme 2007–2013 (RDP). For example, measure 141 RDP has not been implemented. This measure aimed to augment support for semi-subsistence farms and thereby enhance the prospects of such agricultural holdings. These farms currently have small economic share, producing mainly for their own consumption and marketing only a small part of their output, but might have the potential to develop into viable commercial farm businesses, preferably through financial subsidies to investment.

Rural development

44. Government interventions promoting the necessary structural changes in agriculture should be spearheaded by a strategic setting of priorities and have a broader perspective than the one defined by local stakeholders' demands for subsidies.
45. Land management practice regarding the use of the State Land Fund needs a strategic vision, which should aim at the fulfillment of long-term goals for rural development.
46. The lack of start-up capital seems to be a significant obstacle to potential entrepreneurs in rural areas. Start-up micro-credit schemes should be set up to facilitate access to credit for small farming enterprises. Because the commercial banks seem not to be adequate partners for subsistence farmers in terms of credit, the German approach (e.g. that of the Cooperative and Raiffeisen Union) to micro financing could be an option.
47. Creating and promoting a political and public awareness of the need for and advantages of efficient land management and of the purposes, opportunities and impacts of land consolidation is crucial. Information and communication campaigns should accompany the legislative work.

Real estate markets

48. To facilitate transparency in real estate markets and prevent land speculation, urban planning schemes should be prepared and implemented. Land-use zoning regulations and restrictions should be made public for both urban and rural areas. Better, current and reliable information on real estate prices and transactions should be made available to all market participants. This would substantially improve market transparency.

Capacity-building

49. Training of both experts and public employees and public awareness-raising are crucial for further improvement of and a quality-control system for the various fields of land management. Relevant information should also be provided through the media and at all levels of education.

Fees and charges

50. Current work on the cadastre does not recover costs. Cost-recovery systems through the implementation of appropriate fees and charges that cover all or at least part of the costs related to provision of cadastre and registration services should be created.

Technical aspects

51. All data exchange procedures between the agencies and notaries involved in property transactions or mortgage registrations should be handled electronically in the future. This will require open systems, including for the municipalities and GIS functions. Clear and transparent regulations for agreements on the sharing, access and use of data need to be defined and implemented.

52. Orthophoto production and use should be better coordinated to avoid duplication of efforts and to maximize benefits. It is necessary to establish efficient quality control procedures. Where needed, cadastre standards should be lowered at least for an interim period, considering possibilities for applying photogrammetric methods to the creation of the cadastral map so as to have an area-covering multi-purpose data set in place as soon as possible. Setting up charges for those customers wishing access to this information could contribute to cost-recovery plans.
53. Hardware and software applications need to be upgraded at regular intervals, and digital data need continuous improvement. Sufficient means should be made available to keep pace with the most recent developments in information technology.
54. One uniform and well-defined coordinate system should be established as soon as possible to avoid splitting the national territory into four grid zones.
55. Legal and practical measures might quickly resolve the problem of contact zones, which seem to be an important obstacle to rapid completion and approval of the cadastral map. Increased cooperation among agencies (e.g. GCCA and the Ministry of Agriculture and Food) will be necessary, as will the provision of adequate resources to facilitate compensation of landowners.

Commercial issues

56. The State should monitor changes in the real estate market, as an increased number of market-related activities and price hikes could “overheat” the economy. It is important to forecast ongoing changes in real estate prices (e.g. by setting up a register of all real estate transactions containing price information).
57. Implementation of e-land administration tools that emphasize the “one-stop-shop” principle should be pursued. This would improve overall services for citizens.
